

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

**Substantive Order Review Meeting  
Wednesday 7 September 2022**

Virtual Meeting

**Name of registrant:** **Kenneth Peter Brambles**

**NMC PIN:** 81Y0107E

**Part(s) of the register:** Registered Nurse – Sub Part 1 (19 September 1994)  
Registered Nurse – Sub Part 2 (21 March 1984)

**Relevant Location:** North Lincolnshire and Hull

**Type of case:** Misconduct and conviction

**Panel members:** Fiona Abbott (Chair, lay member)  
Angela O'Brien (Registrant member)  
June Robertson (Lay member)

**Legal Assessor:** Fiona Moore

**Hearings Coordinator:** Jennifer Morrison

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

**Fitness to practise:** Impaired

**Outcome:** **Suspension order (6 months) to come into effect on 21 October 2022 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 Mr Brambles' registered email address on 21 July 2022. It also noted that the Notice of Meeting had been sent to Mr Brambles at HMP Hull on 21 July 2022 via first class recorded delivery post.

The panel considered that the Notice of Meeting provided details of the substantive order being reviewed and a date not before which the case would be considered.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Brambles 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 substantive order**

The panel decided to impose a further suspension order of six months.

This order will come into effect at the end of 21 October 2022 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 six months by a Fitness to Practise Committee panel on 12 August 2021. The order was scheduled to be reviewed on 3 March 2022, but the panel had insufficient time to complete the hearing, and therefore decided to extend the suspension order by six weeks. On 8 April 2022, the order was reviewed and a further six-month suspension order was imposed.

The current order is due to expire at the end of 21 October 2022.

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 6 February 2019 whilst attending to the personal care of Patient A:
  - a) Slapped Patient A’s bottom approximately 20 times.*
  - b) Repeated the words “you naughty girl” or words to that effect.**
- 2. On 8 June 2017 at Humber Magistrates’ Court were convicted of driving after consuming so much alcohol that the proportion of it in your breath, exceeded the prescribed limit contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.*
- 3. You failed to inform the NMC of your conviction as required to do so under the NMC Code of Conduct.*

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

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

*‘The panel noted that Mr Brambles has not engaged with this hearing. He has been convicted and is serving prison sentence in HMP Hull. He has not provided the NMC with any new information regarding strengthening his practice and any insight into his misconduct. In light of this, this panel determined that a finding of continuing impairment is necessary on the grounds of public protection.*

*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 Mr Brambles' fitness to practise remains impaired.'*

The original panel determined the following with regard to impairment:

*'The panel finds that Patient A was put at risk of both physical and emotional harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.*

*Regarding insight, the panel considered that you have shown some limited insight, but that this is still developing. In relation to charges 1a and 1b the panel noted that in your evidence you accepted that you used an inappropriate technique and you should have kept your nursing practice updated. However, the panel considered that you have not shown insight into the impact of your actions on Patient A, the nursing profession or the public. The panel considered that you have not provided the panel with evidence of your insight into charges 2 and 3, and you have not provided a reflective statement.*

*The panel is satisfied that the misconduct in this case is capable of remediation. The panel considered that as you demonstrated limited insight, the concerns about the language used at charge 1b are harder to remediate. Therefore, the panel carefully considered the evidence before it in determining whether or not you have remedied your practice. The panel took into account that you have not been able to work since the incident. The panel considered that you have not provided evidence of any training into pressure area care. The panel noted it has not been provided with any references or testimonials.*

*The panel is of the view that there is some risk of repetition based on your lack of full insight and remediation. The panel noted your difficult personal circumstances at the time of your conviction but considered that it is not clear to what extent your personal circumstances have improved. The panel also considered that you should have been aware of the duty to inform the NMC of your conviction. The panel considered that as you have not demonstrated sufficient insight into these concerns, there is a risk of repetition and a risk to the public. Whilst the panel considered that you have some insight into your actions at charges 1a and 1b, it determined that you have not yet sufficiently remediated the concerns. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection in relation to all of the charges.*

*The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.*

*The panel determined that your actions were serious and would be considered deplorable by a member of the public. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.*

*Having regard to all of the above, the panel is satisfied that your fitness to practise is currently impaired.'*

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

*'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel*

*decided that it would be neither proportionate nor in the public interest to take no further action.*

*It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Brambles' practice would not be appropriate in the circumstances*

*The panel next considered whether a conditions of practice on Mr Brambles' 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 that Mr Brambles' practice order would be unworkable.*

*The panel considered the imposition of a further period of suspension. It noted that Mr Brambles is currently serving a prison sentence and that it has not been made aware of the duration of this. Therefore the panel was of the view that a suspension order would allow Mr Brambles further time to fully reflect on his previous misconduct. The panel concluded that a further six month suspension order would be the appropriate and proportionate response and would afford Mr Brambles adequate time to engage with the NMC, develop his insight and take steps to strengthen his practice.*

*[...]*

*Any future panel reviewing this case would be assisted by:*

- Written confirmation of the length of Mr Brambles sentence;*
- Confirmation that any notification has been sent to Mr Brambles prison address by post whilst he remains in prison;*
- Evidence of training, which could be completed online, in areas such as pressure area care and professional conduct and boundaries;*
- A written reflective statement that demonstrates Mr Brambles' insight into the charges and the impact of his actions on Patient A, the nursing*

*profession and public confidence in the nursing profession. This should include the impact of Mr Brambles drink driving conviction and failing to inform the NMC of this conviction;*

- *Evidence of training or reading Mr Brambles has done to keep up with nursing practice.'*

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

The panel has considered carefully whether Mr Brambles' fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 and has accepted the advice of the legal assessor.

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

The panel had no new information before it from either Mr Brambles or the NMC to show that Mr Brambles' fitness to practise is no longer impaired. It also noted from the previous determination that on or around 11 March 2022, Mr Brambles had received a custodial sentence, which, at the time of the previous hearing, he was serving at HMP Hull. The panel had received no update on this situation or any confirmation of the length of custodial sentence which Mr Brambles is serving. It had no evidence of Mr Brambles' insight or attempts he may have made to strengthen his practice. The panel noted that none of the information that the previous panel had advised may be of assistance to a future panel had been produced.

Accordingly, the panel has concluded that there is a real risk of repetition of the matters found proved. It has therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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. Accordingly, 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 Mr Brambles' fitness to practise remains impaired.

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

Having found Mr Brambles' 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 published sanctions guidance ('the 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 charges found proved. 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 determined that in view of the seriousness of the charges found proved and its finding of current impairment, an order that does not restrict Mr Brambles' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Brambles' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.



The panel next considered whether a conditions of practice on Mr Brambles' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate and workable. The panel bore in mind the seriousness of the charges found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Brambles further time to fully reflect on his previous misconduct. The panel concluded that a further six-month suspension order would be the appropriate and proportionate response and would afford Mr Brambles adequate time to further develop his insight, take steps to strengthen his practice and re-engage with the NMC.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 21 October 2022 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Confirmation from the NMC of the length of Mr Brambles' custodial sentence, or confirmation that Mr Brambles has completed his sentence.
- A reflective piece that demonstrates Mr Brambles' insight into his misconduct and the impact of his actions on Patient A and public confidence in the nursing profession. The reflection should also address the impact of Mr Brambles' drink driving conviction and his failure to inform the NMC of this conviction.
- Evidence of training or reading Mr Brambles may have undertaken to keep his nursing skills current and which address the charges.

This will be confirmed to Mr Brambles in writing.

That concludes this determination.