

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

**Substantive Order Review Hearing
Monday, 18 December 2023**

Virtual Hearing

Name of Registrant:	Sophie Hussain
NMC PIN	14B0033E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – 17 March 2014
Relevant Location:	Bradford
Type of case:	Misconduct
Panel members:	Adrian Smith (Chair, Lay member) Pam Campbell (Registrant member) Jude Bayly (Registrant member)
Legal Assessor:	Michael Levy
Hearings Coordinator:	Daisy Sims
Nursing and Midwifery Council:	Represented by Richard Webb, Case Presenter
Miss Hussain:	Present and unrepresented
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (6 months) to come into effect on 22 January 2024 in accordance with Article 30 (1)

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Mr Webb, on behalf of the Nursing and Midwifery Council (NMC) made a request that this case be held in private on the basis that reference to [PRIVATE] may arise during your evidence. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application to the extent that any reference to [PRIVATE] should be heard in private.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session in connection with [PRIVATE] as and when such issues are raised in order to maintain your privacy.

Decision and reasons on review of the substantive order

The panel decided to confirm the current suspension order and extend this order for a period of 6 months.

This order will come into effect at the end of 22 January 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 23 June 2022. On 16 December 2022 this order was continued for a further 12 months.

The current order is due to expire at the end of 22 January 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, whilst working at Steeton Court Nursing Home:

1. *On 22 May 2019, failed to sign for the administration of Co-Beneldopa to an unknown resident in room 5;*
2. *On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;*
 - a. *Co-Beneldopa to a resident in room 5;*
 - b. *Lorazepam to a resident in room 4;*
 - c. *Thick and easy to a resident in room 7;*
 - d. *Lactulose to a resident in room 17;*
3. *On 26 May 2019, failed to administer and/or sign for Calogen and Laxido to an unknown resident in room 40;*
4. *On 31 May 2019;*
 - a. *At 12:00, failed to sign for any of the medication administered to residents;*
 - b. *At 18:00, failed to sign for the administration of Flucloxacillin to an unknown resident in room 41;*
5. *On 12 June 2019;*
 - a. *[NOT PROVED]*
 - b. *Failed to administer Risperidone to an unknown resident in room 18;*
6. *On 22 June 2019, failed to sign for the administration of;*

- a. *Thick and easy to Resident A;*
 - b. *Paracetamol and Lofepramine to Resident F;*
7. *On 9 July 2019, failed to administer a BuTrans pain-relief patch to Resident B;*
8. *On 17 July 2019;*
 - a. *Left quetiapine, sodium valproate, and a vitamin tablet, the prescribed medication for Resident C, unattended in the presence of Resident C and Resident D;*
 - b. *Failed to observe Resident C taking said medication;*

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:

'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 Miss Hussain's fitness to practise remains impaired. The panel noted that the original panel took into account that there had been little engagement from Miss Hussain with the NMC and found that there was a lack of evidence of Miss Hussain demonstrating insight or how she may have strengthened her practice. It took into account that the previous panel provided Miss Hussain with clear guidance on the information which she could put before the next panel to assist it in reviewing the existing suspension order.

However, at this meeting, this panel had no new information before it and no evidence that Miss Hussain was engaging with the NMC prior to this meeting. This panel had before it no evidence of insight or remorse from Miss Hussain and no evidence of how Miss Hussain may have been strengthening her practice. In light of

Miss Hussain's failure to demonstrate compliance and engagement with the proceedings and in light of the lack of material changes to the circumstances of this case, this panel found that the risks identified by the previous panel remain. The panel determined that Miss Hussain is liable to repeat matters of the kind found proved.

The panel 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. 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 Hussain's fitness to practise remains impaired.'

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

The panel next considered whether a conditions of practice order on Miss Hussain'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 bore in mind the seriousness of the facts 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 took into account that the charges may be remediable and may be addressed with conditions of practice. However, in light of Miss Hussain's failure to engage with the NMC and to follow the requirements suggested by the previous panel, this panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Hussain's misconduct.

The panel considered the imposition of a further period of suspension.

The panel took into account that the allegations are serious. It observed that as a registered nurse, Miss Hussain has a duty to engage with the regulator and was concerned with Miss Hussain's complete lack of engagement. It considered that the decision to impose a further suspension order or a striking-off order was finely balanced. The panel was of the view that a striking-off order would be disproportionate at this time. However, a striking-off order would be an option open to the next reviewing panel. The panel concluded that a suspension order would allow Miss Hussain further time to fully reflect on her previous failings, engage with the NMC and demonstrate how she may be strengthening her practice. The panel determined therefore that a suspension order is the appropriate and proportionate response which would continue to both protect the public and satisfy the wider public interest.

Regarding the length of the suspension order, the panel was of the view that a further period of six months would serve no actual purpose. Accordingly, the panel determined to impose a more onerous suspension order for the period of 12 months would provide Miss Hussain with an opportunity to engage with the NMC, demonstrate reflection and insight and demonstrate how she may be strengthening her practice. It considered this to be the most appropriate and proportionate sanction available.

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:

- Miss Hussain's attendance at the review hearing, whether in person, virtually or by telephone,*
- A reflective statement addressing her misconduct,*
- Testimonials or references from any employment paid or unpaid,*
- Evidence of any relevant training undertaken, including evidence of training demonstrating how Miss Hussain is keeping her clinical skills up to date.'*

Decision and reasons on current impairment

The panel has considered carefully whether your 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, responses from you and your reflective statement. It has taken account of the submissions made by Mr Webb on behalf of the NMC. He submitted that you remain currently impaired. Whilst he submitted that your attendance is helpful and you have provided a reflective statement, that there remains a risk of repetition of the facts found proved. He submitted that there is not sufficient evidence before the panel of your clinical practice.

Mr Webb informed the panel that you have not complied with the recommendations of the previous panel by providing references and testimonials. He submitted that it is a matter for the panel whether to impose a further suspension order or a conditions of practice order. He submitted that if the panel were to impose a conditions of practice order it should be stringent and must include direct supervision and regular meetings with your manager. He submitted that any order the panel decides on should be in place for at least 6 months to allow you to comply with the sanction.

The panel also had regard to your evidence under oath. You took the panel through your feelings surrounding this case. You informed it of the impact the suspension order has had [PRIVATE]. You stated that you have recently gained employment with Creative Support in the role of a Senior Support Worker. You stated that you will be getting a start date as soon as your DBS check comes back.

In response to questions from Mr Webb you stated that you wrote your reflective piece a few weeks ago and sent it to the NMC last week. You took the panel through your employment history. You additionally stated that your future plans are to return to psychiatric nursing. You explained that you had not been intentionally dis-engaging with

the NMC on previous occasions and that when you found out about being suspended it took some time for you to process this and [PRIVATE].

In response to panel questions, you explained your training history as a mental health nurse. You explained that you started working in a '*low security hospital*' as a mental health nurse where you stayed for a few years and then moved to a female rehabilitation unit in a role as the nurse in charge. You then moved to the care home where the charges arose. You explained that this care home was regularly short staffed and there was a lack of teamwork.

You submitted that you would like to return to mental health nursing. You stated that you have been strengthening your practice through reading materials. You submitted that you have significant remorse and guilt for what has happened. You further submitted that you would be willing to do any retraining and you would be content with any supervision imposed by the panel.

Decision and reasons on impairment

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 your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had insufficient insight. At this hearing the panel found it positive that you have started engaging with the NMC. The panel noted your reflective statement, but determined that this was not developed enough to show sufficient insight into your actions and their potential impact. The panel determined that you are at the early stages of developing insight.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your evidence that you are keeping up to date through reading. Whilst

the panel determined that this is important, it determined that there is no written evidence before it to demonstrate how you have done this and to determine any other ways that you have strengthened your practice. It accepted that this would be hard to do whilst being subject to a suspension order but noted that reviews of some of the reading you have done would have been helpful and any testimonials or references from your previous employer in the healthcare sector or from your role as a support worker would have been beneficial together with any evidence of training undertaken.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has heard no new information to undermine this. In light of this, this panel determined that you are still liable to repeat matters of the kind found proved. The panel 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. 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 your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 your 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 your 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 your 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 and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. Whilst the panel determined that your attendance at today’s hearing is positive and that you are beginning to develop insight into your actions, it determined that the conditions that would be needed to ensure your safe practice would be extremely rigorous and potentially unworkable. The panel therefore could not be satisfied that a conditions of practice order would adequately protect the public at this time.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow you further time to fully reflect on your previous failings. The panel concluded that a further 6 months suspension order would be the appropriate and proportionate response and would afford you adequate time to further develop your insight and take steps to strengthen their practice. It would also give you an opportunity to approach past and current health colleagues to attest to your honesty and integrity in your workplace assignments since the substantive hearing and would allow you time to demonstrate a good steady work record with your new employer. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 22 January 2024 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:

- Continued engagement with the NMC;
- Testimonials from your current employer;
- An up-to-date reflective piece using a recognised model such as Gibbs demonstrating your understanding of the impact of your misconduct on patients, the profession and the wider public;
- Evidence of keeping yourself up to date within the nursing profession;
- Evidence of any training undertaken in your current and past roles since the substantive hearing;

This will be confirmed to you in writing.

That concludes this determination.