

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

**Substantive Order Review Hearing
Monday 19 December 2023**

Virtual Hearing

Name of Registrant: Anita Jane Stoneley

NMC PIN 17F1763E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – May 2018

Relevant Location: Derbyshire

Type of case: Misconduct

Panel members: Elliott Kenton (Chair, Lay member)
Laura Scott (Registrant member)
Carolyn Tetlow (Lay member)

Legal Assessor: Caroline Hartley

Hearings Coordinator: Hazel Ahmet

Nursing and Midwifery Council: Represented by Ms Denholm

Mrs Stoneley: Present and unrepresented at the hearing

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months)**

Decision and reasons for part of the hearing to be held in private

At the outset of this hearing, the panel asked all parties whether parts of this case should be held in private on the basis that the previous hearing had involved a Rule 19 application. Ms Denholm confirmed that she was not intending to make an application and you also confirmed that you were not intending to make an application. However, it became apparent during the panel's questioning, that part of the hearing should be heard in private as it related to matters personal to you. Following conclusion of that questioning, the hearing resumed in public.

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.

Decision and reasons on review of the substantive order

The panel decided to impose a further conditions of practice order for a period of 12 months.

This order will come into effect at the end of 7 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 conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 9 December 2021. On 28 November 2022, the conditions of practice order was varied and continued for a further 12 months. On 30 November 2023, a substantive order review hearing was due to be heard but was adjourned.

The current order is due to expire at the end of 7 January 2024.

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

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

'That you, a registered nurse

1. On or around 10 September 2019 and over 3 consecutive days failed to give the correct dose of Doxycycline to Resident A.

2. On 26 October 2019 signed a controlled drugs register incorrectly stating 5 vials of Midazolam were present.

3. On 27 November 2019 failed to administer the correct dose of Carbamazepine to Resident B.

4. On 26 June 2020;

a. Potted medication for more than one resident listed in Schedule 1 before it had been administered;

b. Signed the Medication Administration Record for more than one resident listed in Schedule 1 before medication had been administered,

c. Failed to hand over resident care before leaving shift.

5. On or after 26 June you failed to engage with your employers investigation of the facts of charge 4.

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

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

'The panel considered whether Mrs Stoneley's fitness to practise remains impaired.

The panel noted that the last reviewing panel had sight of a Consensual Panel Determination and admissions in which Mrs Stoneley addressed the failings into her practice. At this hearing the panel noted that Mrs Stoneley previously worked as a support worker and had been receiving support from her current employer. However, the panel had no independent information before it to confirm that Mrs Stoneley has been able to comply with the current conditions of practice order in place, whether she has strengthened her practice, and how her insight has developed. The panel noted that there has been no evidence of material change in regard to Mrs Stoneley's nursing practice since the last hearing.

The panel had sight of the on-tables bundle which stated that Mrs Stoneley [PRIVATE]. It noted that Mrs Stoneley, not currently employed as a registered nurse, has not yet had an opportunity to remedy her failings, in particular in relation to medication administration. The panel noted the email of 19 July 2022 from Mrs Stoneley's current employer which stated that she mostly supported one service user, with no responsibility of medication administration, and responsibility for supporting the service user with activities for daily living. In light of this, the panel had no information to indicate Mrs Stoneley had addressed her misconduct and impaired fitness to practice as recommended by the previous panel. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection and that an ongoing risk to public confidence in the profession has not been reduced since the last hearing.

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 Mrs Stoneley's fitness to practise remains impaired.'

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

'The panel was of the view that to impose a suspension order or a striking-off order at this stage would be wholly disproportionate and would not be a reasonable response in the circumstances of Mrs Stoneley's case. The panel noted the mitigating factors identified by the previous panel and in particular that she was the only nurse on duty and had only been practising for just over a year.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to vary and extend the conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 7 January 2023.

It decided to vary Condition 10 to allow a weekly reflective diary as opposed to after each shift. The panel decided the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

- 1. You must keep us informed about anywhere you are working by:
 - a. Telling your case officer within seven days of accepting or leaving any employment.*
 - b. Giving your case officer your employer's contact details.**
- 2. You must keep us informed about anywhere you are studying by:
 - a. Telling your case officer within seven days of accepting any course of study.*
 - b. Giving your case officer the name and contact details of the organisation offering that course of study.**
- 3. You must immediately give a copy of these conditions to:
 - a. Any organisation or person you work for.**

- b. Any agency you apply to or are registered with for work.*
- c. Any employers you apply to for work (at the time of application).*
- d. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
- e. Any current or prospective patients or clients you intend to see or care for when you are working independently*

4. You must tell your case officer, within seven days of your becoming aware of:

- a. Any clinical incident you are involved in.*
- b. Any investigation started against you.*
- c. Any disciplinary proceedings taken against you.*

5. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a. Any current or future employer.*
- b. Any educational establishment.*
- c. Any other person(s) involved in your retraining and/or supervision required by these conditions.*

6. You must not be the sole nurse on duty.

7. You must ensure you are directly supervised by another registered nurse at any time you are administering medication until you have been assessed as competent. Any assessment of competence undertaken with regard to this condition must include a theoretical and practical component. Successful completion of the practical component must be signed off by a registered nurse of Band 6 or above (or a nurse of equivalent seniority if working in an environment without banding).

8. After you have successfully completed the assessment of competence referred to at condition 7, you must ensure you are indirectly supervised by another registered nurse at any time you are administering medication.

9. *You must meet with your line manager or a nominated deputy at least monthly to discuss your practice in the following areas:*

- a. medication administration,*
- b. medication management*
- c. dealing with challenging conversations/situations*

10. *You must keep a weekly reflective diary which must include your reflections on the shifts you work and be discussed in your monthly meetings with your line manager/nominated deputy.*

11. *You must send to your case officer at least 7 days prior to any review of this order a copy of:*

- a. The notes of your monthly meetings with your line manager/nominated deputy*
- b. Your reflective diary.*

The period of this order is for 12 months.'

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 and the relevant on-table papers. This comprised of an 11 page on table bundle received by the panel on the morning of the hearing and a further on table bundle of 17 pages (including your further reflections and reference) that was received by the panel after it had completed deliberations. These on table papers were read by the panel and further deliberations took place, where this documentation was discussed. It has taken account of

the submissions made by Ms Denholm on behalf of the NMC and your evidence provided to the panel.

Ms Denholm submitted that you had accepted the charges against you, the misconduct they amounted to, and the fact that your practise was previously impaired.

Ms Denholm submitted that the current interim conditions of practice order should continue, and that impairment should be found in your case. She submitted that your conduct could have put patients at unwarranted risk of harm, highlighting your misconduct as providing incorrect dosage of medication to patients, pre potting of medication and pre-signing of MAR charts.

Ms Denholm further submitted that your conduct has brought the profession into disrepute and breached fundamental tenets of the nursing profession.

Ms Denholm submitted that in relation to your insight, you have provided reflective pieces and evidence of training and medication competency assessments in your role as a support worker. She stated that there is a level of insight and remorse into your actions, alongside acceptance. However, Ms Denholm highlighted that you have not yet worked in a nursing capacity, and therefore, you have not been able to demonstrate full insight such that your fitness to practice is no longer impaired. Ms Denholm submitted that you must be tested within a professional and clinical setting.

Ms Denholm submitted that there is a risk of repetition of your previous behaviour, and therefore impairment must be found on grounds of public protection.

Ms Denholm submitted that your conduct itself is something that would bring the profession into disrepute and therefore, further reflection and assurance is required to determine that you would not repeat your misconduct. As such, impairment must be found on the grounds of public interest.

Ms Denholm submitted that there should be an extension of the current conditions of practice order, in order for you to strengthen your practice in the nursing profession. She highlighted in particular, that conditions 7 and 9 would support you in doing so.

The panel also had regard to your oral and written evidence.

You explained that you have attempted to gain employment as a nurse, however, you have not been able to secure employment in this role; therefore, you feel you cannot prove yourself to be a good nurse because you have not been able to find work as a nurse.

You submitted that you have communicated with a Head Nurse at a potential employment opportunity, who informed you that due to their shortage of staff, they do not have the capacity to have someone supervise you at all times during your medication rounds. You highlighted further that there have been other potential employers who considered you unsuitable for other nursing roles, due to the restrictions on your practice.

You told the panel that you do not want to return to working in a nursing home due to the lack of support, and that you now work as a support worker.

You currently work with someone [PRIVATE], whereby you administer his morning and evening medication. You submitted that you enjoy working as a support worker, and it is a *'lovely role'*.

You stated that many of the accusations initially made against you were not truthful, but were advised to, and *'had to'* accept that the charges were true and happened. You submitted that you did make some mistakes, but reassured the panel that you are now in a better place, you have matured, you have understood what occurred, and feel more competent.

You stated that, in reflecting on your having walked out of the Home and refusing to attend the Local Investigation, you accept you made a mistake. You said that you were under great pressure at work and were not treated well by your manager when she confronted you. You said that your manager was *'shouting'* in your face, which made you panic and run. You stated that you did not throw the keys but placed them on top of the medication cabinet. Upon being questioned, you explained that if something similar were to occur, you would handle it professionally, but you would not put yourself in that position again.

You repeated that you would not want to work in a nursing home again and would prefer to work within a hospital environment as this is more of a supported role, with other nurses around you.

You stated that you have not yet enrolled on a Return to Nursing Course and are quite willing to financially invest into different courses to strengthen your practice. You submitted you have kept all of your university work from your three years of study, which will aid you in revising your role as a nurse.

You stated that now, in reflecting on your previous situation, you would not be afraid to ask for help when you require it. You stated that when you previously asked for help, you were *'told to get on with it'*, which made you feel unsupported. If you were in a pressurised situation again, you would not be afraid to escalate matters and would ensure you would communicate with your manager.

[PRIVATE]

[PRIVATE]

[PRIVATE]

You told the panel that you currently work as a support worker two nights a week and three nights, every third week.

The panel also noted from your reflection, that you have *'gained [your] confidence back with medication management.'*

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

The panel considered whether your fitness to practise remains impaired.

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 noted that the last reviewing panel found the following in regard to your insight:

'At this hearing the panel noted that Mrs Stoneley previously worked as a support worker and had been receiving support from her current employer. However, the panel had no independent information before it to confirm that Mrs Stoneley has been able to comply with the current conditions of practice order in place, whether she has strengthened her practice, and how her insight has developed. The panel noted that there has been no evidence of material change in regard to Mrs Stoneley's nursing practice since the last hearing.'

In its consideration of whether you have taken steps to strengthen your practice, since the last review, the panel took into account your reflective piece, your sincere remorse, your explanation of the personal and professional context surrounding your misconduct, and decided that your insight into your previous misconduct, has developed. The panel also took into consideration your desire to improve your practice as a nurse.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved.

Today's panel has considered your remorse and embarrassment regarding your previous misconduct. You have accepted that your practice fell short of what is expected from a registered nurse. The panel paid particular regard to the fact that your insight has developed further, and you now have a better understanding on why you walked out without handing-over and did not attend the investigation at your previous role. The panel was of the view that you have accepted your medication management mistakes also, and that you have made progress, and have a strong desire to return to practicing as a registered nurse.

The panel further considered the fact that you have been working as a support worker and to some extent have been able to demonstrate medicines administration, albeit, for a single patient. However, it was of the view that your current employment has not provided you with a sufficient opportunity to improve your practice as a registered nurse or to comply with your conditions. The panel took into account that you have completed the mandatory training within your current employment but determined that this is not sufficient

to evidence that you are no longer impaired. The panel further determined that, although you have taken demonstrable steps to improve your practice, you have not yet provided evidence of competence in medicines administration more generally, and therefore, there remains a risk of repetition.

In light of this, this panel determined that you are still liable to repeat matters of the kind found proved, as you have not had the opportunity to improve your practice within the nursing environment. 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 there is insufficient evidence of competence in medicines administration, and therefore, the public confidence in the profession would be undermined if you were allowed to practice as a nurse, unrestricted at this time. Therefore, a finding of current 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 imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you have been unable to comply with conditions of practice due to your current employment status but are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting that there was no evidence of general incompetence, no deep-seated attitudinal problems. In this case, there are conditions which could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 7 January 2024. It decided to confirm and continue with the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must keep us informed about anywhere you are working by:
 - a. Telling your case officer within seven days of accepting or leaving any employment.
 - b. Giving your case officer your employer's contact details.

2. You must keep us informed about anywhere you are studying by:
 - a. Telling your case officer within seven days of accepting any course of study.
 - b. Giving your case officer the name and contact details of the organisation offering that course of study.

3. You must immediately give a copy of these conditions to:
 - a. Any organisation or person you work for.
 - b. Any agency you apply to or are registered with for work.
 - c. Any employers you apply to for work (at the time of application).
 - d. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
 - e. Any current or prospective patients or clients you intend to see or care for when you are working independently

4. You must tell your case officer, within seven days of your becoming aware of:
 - a. Any clinical incident you are involved in.
 - b. Any investigation started against you.
 - c. Any disciplinary proceedings taken against you.

5. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a. Any current or future employer.
- b. Any educational establishment.
- c. Any other person(s) involved in your retraining and/or supervision required by these conditions.

6. You must not be the sole nurse on duty.

7. You must ensure you are directly supervised by another registered nurse at any time you are administering medication until you have been assessed as competent. Any assessment of competence undertaken with regard to this condition must include a theoretical and practical component. Successful completion of the practical component must be signed off by a registered nurse of Band 6 or above (or a nurse of equivalent seniority if working in an environment without banding).

8. After you have successfully completed the assessment of competence referred to at condition 7, you must ensure you are indirectly supervised by another registered nurse at any time you are administering medication.

9. You must meet with your line manager or a nominated deputy at least monthly to discuss your practice in the following areas:

- a. medication administration,
- b. medication management
- c. dealing with challenging conversations/situations

10. You must keep a weekly reflective diary which must include your reflections on the shifts you work and be discussed in your monthly meetings with your line manager/nominated deputy.

11. You must send to your case officer at least 7 days prior to any review of this order a copy of:

- a. The notes of your monthly meetings with your line manager/nominated deputy
- b. Your reflective diary.

The period of this order is for 12 months.

Whilst acknowledging that these conditions may make it difficult for you to obtain employment as a nurse, the panel concluded that on balance, they must remain in order to protect the public and to uphold public confidence in the profession. However, the panel would like to emphasise that, if you are able to demonstrate compliance with your conditions, a future panel would have the power to remove your conditions of practice.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 7 January 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Any evidence of efforts you have made to seek work as a registered nurse;
- Any efforts made to engage with a Return to Practice Course;
- Any references from your employer regarding your competencies; particularly in relation to your medication management;
- Any evidence of how you have kept up to date with the nursing practice;
- Any further insight you can offer in relation to your misconduct.

This will be confirmed to you in writing.

That concludes this determination.