

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

**Substantive Order Review Hearing
Monday 31 July 2023**

Virtual Hearing

Name of registrant: Adam Vellins

NMC PIN: 16K0783E

Part(s) of the register: Registered Nurse - Sub part 1
RNA: Adult Nurse, Level 1 (September 2017)

Relevant Location: Manchester

Type of case: Lack of competence

Panel members: Adrian Smith (Chair, Lay member)
Christine Callender (Registrant member)
Bill Matthews (Lay member)

Legal Assessor: Caroline Hartley

Hearings Coordinator: Sherica Dosunmu

Nursing and Midwifery Council: Represented by Beverley Da Costa, Case
Presenter

Mr Vellins: Present and unrepresented

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 months) to come into
effect on 31 August 2023 in accordance with
Article 30 (1)**

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

During the course of your evidence, it became apparent that proper exploration of your case involves reference to your health. The panel of its own volition considered that this case should be held partly in private on the basis that your case involves reference to health matters. This consideration was pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Da Costa, on behalf of the Nursing and Midwifery Council (NMC), indicated that she supported this consideration.

You indicated that you also support this consideration.

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.

Having heard in your evidence that there was reference to health matters, the panel determined to hold such parts of the hearing in private. This decision was also applied retrospectively.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order.

This order will come into effect at the end of 31 August 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 3 August 2022.

The current order is due to expire at the end of 31 August 2023.

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:

'1. Having agreed undertakings in respect of the following regulatory concerns:

a. failure to demonstrate safe and effective practice in the following areas:

- i. Medication management*
- ii. Record keeping*
- iii. Accurately assessing condition of patients*
- iv. Recognising and escalating deteriorating patients*
- v. Handover of patients*
- vi. Time management and prioritisation*
- vii. Basic nursing knowledge*

2. Breached your undertakings in that you did not complete your undertakings within the time given for compliance.'

The original panel determined the following with regard to impairment:

'The panel considered that limbs a, b and c were engaged by Mr Vellins' lack of competence found in this case. Mr Vellins' actions placed patients at unwarranted risk of harm. The panel determined that his lack of competence breached fundamental tenets of nursing practice and therefore brought the nursing profession into disrepute.

The panel however recognised that it had to make a current assessment of Mr Vellins' fitness to practice. It had regard to the case of Cohen and considered whether the concerns identified in his nursing practice were capable of remediation, whether they have been remedied and whether there was a risk of repetition of a similar kind at some point in the future. In considering those issues the panel had

regard to the nature and extent of the lack of competence and considered whether Mr Vellins had provided evidence of insight and remorse.

In an undated reflective statement, Mr Vellins stated:

“In retrospect I wouldn’t have done the masters as I believe it is a less hands on course which when I finished left me with a fundamental lack of knowledge in practical’s such as anatomy and physiology and experience in clinical vivas or similar.

My second mistake was accepting a rotational post with an initial six month period in an Acute Medical Unit (‘AMU’). I hadn’t worked in an AMU but wanted an opportunity to learn as much as possible as quickly as possible and accepted the advice of a mentor and a Consultant friend who both suggested how useful it would be. Additionally I had not worked in a Manchester trust before and as such the systems and processes were all completely new to me...

I believe I’m a good nurse and only require the support we all need in the early stages of our career”.

Regarding insight, the panel noted that Mr Vellins had failed to address the regulatory concerns identified by the NMC or his failure to comply with the undertakings. The panel noted that Mr Vellins was initially engaging with the NMC, but has since disengaged. It also noted that it does not have any current information before in relation to this case.

The panel concluded that Mr Vellins had demonstrated very little insight into the impact his lack of competence has had or may have had on patients, colleagues and the wider public.

The panel considered whether Mr Vellins' lack of competence is capable of remediation, whether it has been remediated, and whether there is a risk of repetition of similar concerns occurring at some point in the future.

The panel was satisfied that the regulatory concerns identified by the NMC were capable of remediation. However, it bore in mind that Mr Vellins' had been provided the opportunity to remediate the concerns raised via the Case Examiners' undertakings. However, Mr Vellins had not complied with these undertakings. Further, the panel noted that Mr Vellins made further medication errors despite being supported with undertakings.

The panel had no evidence before it that Mr Vellins had taken steps to strengthen his practice and remediate the concerns identified. The panel is of the view that Mr Vellins' lack of insight, lack of successful remediation and limited engagement with the NMC, indicate that there remains a real risk of repetition of the concerns raised.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC is to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/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, in this case, a finding of impairment on public interest grounds was required. It bore in mind that Mr Vellins has had numerous opportunities to remediate his practice and failed to do so. In light of this, it was of the view that public confidence in the nursing profession could not be maintained in the absence of a finding of impairment.

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

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. It bore in mind that Mr Vellins had been on the undertakings for two and a half years and had not strengthened his practice.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mr Vellins. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards required of a registered nurse.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the lack of competence.

At 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:

- Your engagement with the NMC and attendance at a future review hearing;*
- A reflective piece addressing the impact your lack of competence has had or may have had on patients, colleagues and the wider public;*

- *Testimonials from paid or unpaid employment;*
- *Current evidence of strengthened practice through training courses and/or CPD's;*
- *A clear outline of your future intentions so far as nursing is concerned.'*

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. It has taken account of the submissions made by Ms Da Costa on behalf of the NMC and those made by you. The panel also heard oral evidence from you under affirmation.

Ms Da Costa outlined the background of the case and reminded the panel of the decision taken at the substantive meeting. She referred to the previous panel's findings and stated that it was found that you demonstrated very little insight as you failed to address the regulatory concerns identified by the NMC and failed to comply with the undertakings. She also referred to the previous panel's findings on remediation and stated that the panel found no evidence that you had taken any steps to strengthen your practice and therefore concluded there was a real risk of repetition.

In respect of current impairment, Ms Da Costa stated that this was a matter for the panel to decide. She submitted that in its consideration, the panel should consider whether you have provided sufficient evidence demonstrating insight and remediation which fully address the concerns raised at the substantive meeting. She submitted that this is a very serious case of a lack of competence and the panel should decide if you are safe to practise without restrictions. She reminded the panel that its primary function today is the protection of the public and maintaining public confidence in the profession.

You gave evidence under affirmation.

You stated there are some major critical points that have not yet been taken into account in respect of this case. You informed the panel that [PRIVATE].

You stated that in terms of not engaging with the process, you explained that this was impacted by Covid-19 and [PRIVATE]. You informed the panel that while employed by the Trust you worked throughout the Covid-19 pandemic. You also explained that you were unable to work for a period of 12 - 16 months due to [PRIVATE].

You stated that the restrictions on your practice have remained for quite some time and since then you have taken on voluntary work with the army, providing humanitarian aid in Ukraine during the war. You explained that throughout your voluntary work you have maintained compliance with the restrictions placed on your practice.

You stated that you do not feel it is fair or accurate to say you have not engaged with the process since you have only had one official assessment in the three to four years you worked at the Trust. You explained that you have not had any other official reviews and there was no official plan of action for you to be able to assess your own shortcomings. You stated that you do not believe management at the Trust cared enough to provide you with guidance. You stated that you were a capable nurse [PRIVATE], but you feel there has been no reflection on the fact prior to the concerns raised, you worked the normal 12 hours a day, three shifts a week, with extra hours at times and received no complaints.

You stated that as far as the mistakes you have made in practice are concerned, you take full responsibility for this. You stated that it is absolutely not the case that you do not care, as the care of your patients come first. You explained that having spent the last couple of months researching [PRIVATE], you can see and understand exactly why the problems occurred. [PRIVATE].

You referred to a medication error in respect of one patient and explained that the patient was on the diabetic ward. You explained that you were one of the few people the patient would allow to take care of him as you knew him for a while. You stated that as a result,

you were distraught when you found out you made a medication error involving this patient who you cared deeply about.

You explained that you obtained a Masters degree in nursing and started working in the Acute Medical Unit (AMU), which you now recognize was the wrong place for you. You stated that following the concerns raised at the Trust, you were told that if you did not resign you would be fired and reported to the NMC. You stated that this prompted your resignation, but you found that you were reported to the NMC anyway. You stated that you found that you were met with a bullying culture at the NHS.

You informed the panel that after this encounter with your first employer you then worked at another Trust and was faced with a similar set of circumstances.

When questioned, you clarified that you have not drafted a further reflective piece. You stated that you were engaging with the NMC up until [PRIVATE] a month ago. You explained that you were also considering whether you still wanted to continue working as a nurse or in the medical profession at all, which is why you stopped engaging. You stated that you are still unsure whether you want to be a nurse, but you have been trying to gain work as a healthcare assistant to then see if you could work your way 'up'.

You stated that following the voluntary work you have undertaken in Ukraine you have considered a role as a first responder in emergency care that might be of interest to you in the future. You explained that in any case you would like to work as a healthcare assistant first and build up from there, if you are able to.

When questioned by the panel about testimonials, you indicated that you would be able to provide testimonials from your voluntary work, although this might be in another language. 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 considered that the original panel on 3 August 2023 found that you demonstrated very little insight into the impact of your lack of competence. At this hearing, the panel noted that you did not provide a reflective piece addressing the impact your lack of competence has had or may have had on patients, colleagues and the wider public. The panel was of the view that you did not demonstrate that you have gained further insight into the previous failings.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you have worked closely with emergency care during your voluntary work and you have made some attempts to gain employment as a healthcare assistant. It had regard to the fact that [PRIVATE], which may have had an impact on your ability to engage with some of the undertakings in this case. Notwithstanding this, the panel found that you have not yet demonstrated effective steps taken to evidence competence in the areas of failing in your nursing practice. It noted that it was not presented with evidence of strengthened practice through training courses and/or CPD's, or provided with any testimonials.

In light of this, the panel had insufficient evidence before it to allay its concerns that you may currently pose a risk to patient safety. The panel determined that there is a risk of repetition should you be permitted to practise as a registered nurse without restriction. Therefore, the panel decided that a finding of 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 lack of competence 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 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 took into account that this was a case which involved evidence of general incompetence relating to fundamental aspects of nursing skills. The panel noted that the concerns in this case may relate to [PRIVATE]. The panel was therefore not able to formulate conditions of practice that would adequately address the concerns relating to lack of competence. The panel bore in mind the seriousness of the facts found proved at the original substantive meeting 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 you further time to fully reflect on your previous failings. The panel had regard to the fact that you are currently still awaiting [PRIVATE].

The panel concluded that a further 12 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 your practice. The panel determined that a suspension order 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 12 months.

The panel noted that should circumstances change, you are entitled to apply for an early review of the order.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 31 August 2023 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:

- Your continued engagement with the NMC and attendance at a future review hearing;
- An up to date reflective piece addressing the impact your lack of competence has had or may have had on patients, colleagues and the wider public;
- Testimonials from paid or unpaid employment;
- Current evidence of strengthened practice through training courses and/or CPD's;
- [PRIVATE];
- A clear outline of your future intentions so far as nursing is concerned.

This will be confirmed to you in writing.

That concludes this determination.