

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

**Substantive Order Review Hearing
Thursday 30 March 2023**

Virtual Hearing

Name of Registrant: Miss Kirstie-Marie Smith

NMC PIN 11B0400E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing - September 2011

Relevant Location: Kent

Type of case: Misconduct

Panel members: Lucy Watson (Lay member)
Christine Callender (Registrant member)
Robert Cawley (Lay member)

Legal Assessor: Monica Daley

Hearings Coordinator: Hazel Ahmet

Nursing and Midwifery Council: Represented by Anna Leathem, Case Presenter

Miss Smith: Present and not represented at the hearing

Order being reviewed: Conditions of practice order (18 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months) to come into effect at the end of 10 May 2023 in accordance with Article 30(1)**

Decision and reasons on review of the substantive order

The panel decided to impose a conditions of practice order for a further 18 months.

This order will come into effect at the end of 10 May 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive conditions of practice order imposed on 4 October 2021. The original order imposed was a suspension order for a period of 8 months on 12 August 2019. At the first review on 1 April 2020, the suspension order was changed to a conditions of practice order for a period of 18 months. This order was confirmed for a further 18 months at the next review on 4 October 2021.

The current order is due to expire on 10 May 2023.

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 21 November 2016, did not sign for the administration of Paracetamol and Codeine at 18.00 on patient D's drug chart

2. On 28 November 2016,

a. Did not record in patient F's notes that you had been notified by the laboratory that 2 units of blood were ready for collection,

b. Did not arrange for the 2 units of blood for patient F to be collected,

c. Did not start patient F's blood transfusion,

d. Did not handover to the night nurse that patient F required 2 units of blood,

e. Did not handover to the night nurse that 2 units of blood had not been administered to patient F.

3. *On 28 and 29 November 2016,*
 - a. *Did not sign for the administration of Perindopril at 18.00 on patient A's drug chart*
 - b. *Did not sign for the administration of Mirtazapine at 18.00 on patient B's drug chart*

4. *On 29 November 2016, did not sign for the administration of Candesartan at 18.00 on patient C's drug chart*

5. *On 3 December 2016, did not sign for the administration of Nitrofurantoin at 13.00 on patient E's drug chart*

6. *On 20 December 2016,*
 - a. *Did not record the date, time or your signature for the administration of blood on patient G's drug chart,*
 - b. *Checked the blood for patient G with a HCA who was not competent to be a second checker*

7. *On 20 December 2016, whilst changing a patient's wound dressing, you*
 - a. *Put your hand inside the wound,*
 - b. *Were not wearing sterile gloves,*
 - c. *Did not use a dressing trolley,*
 - d. *Placed clean dressings on the patient's bed.*

8. *On 21 December 2016, you retrospectively recorded the date and your signature for the administration of blood on patient G's drug chart, without indicating that this was a retrospective entry*

9. *On 21 December 2016,*
 - a. *Did not conduct 4 hourly observations for patient G as required,*

b. Altered the observation timings on Vital Pac for patient G,
c. Sent a blood sample for patient G incorrectly labelled with 2
blood request forms, one for patient G and one for patient H.
And, in light of the above, your fitness to practise is impaired by
reason of your misconduct.”

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

‘The panel noted that the last reviewing panel found that Miss Smith had good insight. At this hearing the panel acknowledged Miss Smith’s submission of a written reflective piece which demonstrated insight. However, the panel noted that the reflective piece did not address what steps, if any, Miss Smith had taken towards securing employment in a nursing or health care setting. Further, the panel noted that there was no evidence to demonstrate that Miss Smith had undertaken and completed any relevant training courses. As such, the panel were of the view that Miss Smith had not yet taken steps to address areas of risk within her practice of fundamental nursing skills and therefore, the risk of repetition remains high.

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 Smith’s fitness to practise remains impaired.’

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

‘Having found Miss Smith’s fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case.

...

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that Miss Smith had shown good insight and a willingness to engage with conditions of practice. In this case, there are conditions which could be formulated that protect patients during the period they are in force.'

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 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, including the NMC bundle, and responses from you. It has taken account of the submissions made by Miss Leathem on behalf of the NMC.

Miss Leathem submitted that the conditions of practice order currently imposed on your practice has not been complied with as you have not worked within a clinical setting. She submitted you have not worked since 2017, and there are no testimonials or evidence that you have been able to remediate the risk of repetition. She submitted that the risk of harm, if you were to practice unrestricted, still remains.

Miss Leathem submitted that your misconduct concerns are wide-ranging and include failings in basic clinical skills, which present a real risk of harm. Miss Leathem submitted that this misconduct is remediable, however, you have not provided any evidence of training, securing of employment, or a reflective piece.

Miss Leathem submitted that there has been no material change in this case, and that your practice remains impaired. She submitted that your practice remains impaired on grounds of both public protections, and in the wider public interest.

Miss Leathem submitted that in regard to sanction, the current conditions of practice order can be confirmed in order to allow you to seek employment and undertake sufficient training. She submitted that the current conditions imposed on your practice, sufficiently protect the public from your clinical risks.

The panel also had regard to your submissions.

You submitted that you have not looked for employment thus far as you believed you could not. You were unaware that you still had access to your PIN which provides you the ability to practice in the nursing field. You submitted that after the hearing concludes today, you will actively look for work, now that you are aware you are able to.

You submitted that you have not practiced for over 5 years and thus will be aiming to complete the Return to Practice Course. You have been in contact with Canterbury and Christchurch University and hope to enrol in the course in 2023. You submitted that you have joined as a member of the RCNi, which provides you with templates to work from in regard to nursing practice. You submitted that you have paid for the monthly subscription for the CPD programme and are looking into doing certain courses.

You submitted that you love being a nurse but are aware that as of currently you are a risk and *'do not want to be a danger to anybody'*.

You were then asked questions by the panel.

You submitted that the courses you have been looking into doing online are: Hand-Hygiene Techniques, Aseptic Technique and Patient Note Taking. You submitted that you are always visiting the NMC website to learn about new codes of practice, alongside RCNi. You submitted you have read numerous things about patient-handovers and downloaded structured templates on how to proceed with a *'proper'* hand-over.

You submitted that you have not been working within the last five years and [PRIVATE]. You submitted that you [PRIVATE].

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 good insight which was demonstrated through your written reflective piece; however, noted that it did not address what steps, if any, you had taken towards securing employment in a nursing or health care setting.

The panel further noted that there was no evidence to demonstrate that you had undertaken and completed any relevant training courses to strengthen your practice.

At this hearing the panel determined that you presented some level of insight and remorse, however, you have not provided evidence of improvement of your clinical practice improvement. Some examples of this are as follows:

- You accept the charges and failings against you
- You demonstrated an understanding of how your actions put the patient at a risk of harm
- You listed the courses you intend to begin, such as Hygiene Techniques, Aseptic Technique and Patient Note Taking

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you have subscribed to the RCNi and that you have researched the available courses. However, the panel considered the fact that you have not attempted to work within the healthcare environment, nor have you undertaken any medicines-management courses to strengthen your practice.

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 the allegations against you are wide-ranging and could have caused harm to patients and that you have presented a lack of effort in improving your practice and there remains a risk of repetition.

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 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 as the original panel did, that the misconduct was remediable as it related to clinical failings. In this case, there are conditions that can 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 because you have not yet returned to the nursing practice, however, have confirmed you intend to do so.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to confirm the current conditions of practice order and extend it for a period of 18 months which will come into effect on the expiry of the current order, namely at the end of 10 May 2023. It decided to impose 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 ensure that you are supervised any time you are working. Your supervision must consist of:

- Working at all times on the same shift as, but not always directly

observed by a registered nurse.

- Weekly meetings to discuss your clinical caseload.

2. You must work with your line manager to create a personal development plan (PDP). Your PDP must address the concerns about:

- management of wound care,
- medication management,
- infection control and,
- record keeping.

You must:

a. Send your case officer a copy of your PDP before your next review.

b. Meet with your line manager at least every two weeks to discuss your progress towards achieving the aims set out in your PDP.

c. Send your case officer a report from your line manager every three months. This report must show your progress towards achieving the aims set out in your PDP.

3. You must provide evidence of on-going clinical reflections relating to the areas identified in your PDP and share these with your line manager at your regular meetings. You must send your case officer a copy of these reflections every three months.

4. 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.

5. 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.

6. 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 on a private basis when you are working in a self-employed capacity

7. 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.

8. 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.

The period of this order is for 18 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely on 10 May 2023 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, including

a striking-off order. The panel recognise that although you have made some efforts to research courses, this process is not indefinite.

Any future panel reviewing this case would be assisted by:

- Evidence of any training of relevant online training modules which would prepare you for the Return to Practice Course
- Evidence that you have applied for and been accepted onto the Return to Practice Course
- Evidence of your success within this course
- Evidence of any paid or voluntary work in a health and social care setting which you have undertaken during this 18-month period
- Testimonials from any employers or voluntary role employers

This will be confirmed to you in writing.

That concludes this determination.