

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

**Substantive Order Review Hearing
Monday 23 October 2023**

Virtual Hearing

Name of Registrant: Maureen Keenan

NMC PIN 89E0328S

Part(s) of the register: Registered Nurse
Learning Disabilities Nurse – September 1992
Mental Health Nursing – August 2002

Relevant Location: Glasgow

Type of case: Misconduct

Panel members: Jonathan Storey (Chair, Lay member)
Janet Fitzpatrick (Registrant member)
Clare Taggart (Lay member)

Legal Assessor: Fiona Barnett

Hearings Coordinator: Hazel Ahmet

Nursing and Midwifery Council: Represented by Maggie Morrissey

Ms Keenan: Not present, represented by Gary Burton

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect at the end of 1 December 2023 in accordance with Article 30(1)**

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 1 December 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 3 May 2022. This was reviewed on 7 November 2022 and the suspension order was changed to a conditions of practice order for 12 months.

The current order is due to expire at the end of 1 December 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:

Details of charge

1. [...]

2. [...]

3. *Between October 2018 and January 2019, on one or more occasions did not attend and/or complete a visit of your patient[s] as set out in Schedule B;*

4. *In respect of Client A, following a significant event on or around 14 January 2019:*

a) *Did not complete a significant event record for Client A's child;*

b) [...]

5. In January 2019, did not provide sufficient information in Client B's patient record and/or assessment in that you:

- a) Did not record Client B's child's SIRS number;
- b) [...]
- c) Did not complete Client B's perinatal mental health pathway;
- d) Did not complete a lone worker risk assessment form;
- e) [...]

6. Between approximately November 2018 and February 2019, did not complete one or more data forms in relation to Client B in a timely manner or at all;

7. On approximately 22 October 2018, did not offer the Family Nurse Partnership programme to Client C in a timely manner or at all;

8. In respect of Client E, following a significant event on or around 18 December 2018:

- a) [...]
- b) Did not take any and/or sufficient action in that you:
 - i. [...]
 - ii. Did not undertake a safety/hazard check of Client E's home;
 - iii. Did not undertake a well-being check of Client E and her child;
 - iv. Did not demonstrate to Client E how to perform CPR and/or handling a choking incident;

9. Displayed unprofessional behaviour in that you:

- a) On 5 February 2019, towards Colleague A:
 - i. spoke in a loud manner and/or shouted;
 - ii. spoke in an angry and/or hostile and/or abrupt manner:

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:

'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 had regard to all of the documentation before it, including the NMC bundle and documentation sent by Mr Burton on your behalf. This included testimonials from your employer, character references, a reflective piece written by you and a Personal Development Plan (PDP).

The panel took into account the submissions made by Mr Clair on behalf of the NMC.

Mr Clair submitted that a conditions of practice order for a period of 6 months is now the appropriate order. Mr Clair referred the panel to testimonials provided by Mr Burton on your behalf, particularly a testimonial from your previous employer, dated 12 August 2022. He submitted that this testimonial confirms that there are no issues with your ability to deliver care in that role. However, he asked the panel to consider that it is unsigned and three months out of date. With regard to the other testimonials, he submitted that these seem to be character references and invited panel to exercise caution when attributing weight to these.

Mr Clair referred the panel to your PDP and accepted you have taken some steps towards remediation. However, he submitted that there is very little about the steps detailed in your PDP as to what you have done to strengthen your practice in the areas of concern. Mr Clair also referred the panel to your reflective piece. He submitted that, while you do address some of the misconduct, it does not address charge 8b(iv). He conceded that you do show a degree of insight and your reflective piece does address

some of the concerns in your practice and the effect your misconduct has had on the nursing profession. He submitted that the reflective piece also details how you would approach similar circumstances in future.

Mr Clair submitted that, while the documents provided take you some way forward with insight, the panel should not be satisfied that your fitness to practise is no longer impaired.

Mr Clair submitted that a further suspension would not be appropriate in light of your developed insight and the steps you have taken to strengthen your practice. He invited the panel to replace the suspension order with a conditions of practice order, and an up to- date testimonial from your employer.

The panel also had regard to submissions from Mr Burton on your behalf.

Mr Burton told the panel that you had secured employment in healthcare role, and that you have been improving your practice during suspension. He submitted that, although there is no record of your safe practice as a registered nurse, there have been no issues identified while you have been working in your healthcare role. Mr Burton informed the panel that your responsibilities in your healthcare role included providing care to service users, addressing social concerns, assisting with mental health issues and assisting with mobility.

Mr Burton told the panel that your previous employer has closed and you have not been working there as of September 2022. In response to panel questions, he informed the panel that you have not been working in a healthcare role since September 2022 as you have had to manage the sale of a property.

Mr Burton told the panel that it is your intention to seek employment as registered nurse through the NHS Children and Adolescent Mental Health Service ('CAMHS').

Mr Burton submitted that you did everything you could to assist the panel at this review hearing. He submitted that your reflective statement shows a clear understanding of your failings, you have considered how your actions may have impacted patients and how the public would view your conduct. He told the panel that you also address how you would deal with a similar situation and that you have created a PDP which details how you will address the concerns in the future.

Mr Burton further submitted that you have shown clear insight and that you have identified strategies to prevent conduct of the kind found proved from happening again. He submitted that the panel can be satisfied that the six-month period of suspension has allowed you to fully develop your insight. 59 Mr Burton submitted that you are now able to return to unrestricted practice and that the risk of repetition is very low. He submitted that your fitness to practise is no longer impaired and invited the panel to allow the current order to lapse.

Mr Burton submitted that, should the panel determine that your fitness to practise remains impaired, a conditions of practice order may be appropriate. He suggested that the panel include a condition outlining that you have regular meetings with your line manager.

The panel 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. This panel noted that the original panel found that you had insufficient insight. At this hearing, the panel had sight of your reflective piece and it recognised the significant progress you have made. In this piece, the panel was of the view that you have demonstrated some understanding of your

misconduct and that you have detailed how you would handle the situation differently in the future. However, the panel determined that your insight is focused on practical steps to deal with similar situations in the future. It considered that, in your reflective piece, you have not fully addressed the impact of your actions on patients and you have shown a limited understanding of how your actions would impact negatively on the reputation of the nursing profession.

The panel took into account that you had been working in a healthcare role during the period of suspension and noted that the testimonial from your former employer highlights that you have worked in this setting without concern. The panel also considered the character references provided, which are undated and unsigned. It noted that these do not address your clinical practice. In light of this, it decided to attach little weight to these character references.

Further, the panel considered your PDP which details how you will strengthen your practice in the areas of concern. It considered that you have taken some steps to strengthen your practice during the period of suspension. However, the panel is not satisfied that you have fully strengthened your practice in the areas of concern, namely record keeping, time management and escalating concerns. The panel noted that you will need to update your training and professional skills. The panel considered that you have not been practising as a registered nurse and you have therefore been unable to demonstrate that you are a safe practitioner at this time. In light of this, the panel determined that there is a risk of repetition of the conduct 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 60 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.'

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

'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 considered substituting the current suspension order with a conditions of practice order. Despite the seriousness of your misconduct, there has been evidence produced to show that you have developed some insight and taken steps to strengthen your practice. The panel took into account that you have demonstrated a willingness to learn and improve your practice. You have also indicated that you wish to return to nursing.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice and would serve to protect the public and the reputation of the profession in the meantime.

The panel was of the view that imposing a further suspension order, or a striking-off order, would be wholly disproportionate in light of your

developing insight and the steps you have taken to strengthen your practice. The panel decided that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions of practice:

'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 limit your nursing practice to one substantive employer. You must not work for an agency.*
- 2. You must not be the nurse in charge of a shift or supervising other clinical staff.*
- 3. You must work with your line-manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the concerns about your:*
 - Record keeping*
 - Assessing, planning, evaluating and managing the nursing care for a caseload of patients.*

You must:

- a) Send your case officer a copy of your PDP one month after starting employment and an up-to-date PDP before the review hearing.*
 - b) Meet with your line-manager, supervisor or mentor at least every week 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 before the review hearing. This report must show your progress towards achieving the aims set out in your PDP.*
- 4. You must ensure that you are directly supervised by another registered nurse of at least band 6 until such time as your line-manager, mentor or*

supervisor has assessed you in being able to practise independently the skills identified in your PDP. Your supervision must consist of working at all times while being directly observed by another registered nurse.

Once your line-manager, supervisor or mentor has confirmed that you can practise independently, you must ensure that you are indirectly supervised by another registered nurse any time you are working. This must consist of:

- Working at all times on the same shift as, but not always directly observed by, another registered nurse.*
- Weekly meetings with your line-manager, supervisor or mentor to discuss your clinical caseload.*

5. You must keep the NMC 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.*

6. You must keep the NMC 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.*

7. You must immediately give a copy of these conditions to:

- a) Any organisation or person you work for.*
- b) Any employers you apply to for work (at the time of application).*
- c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

8. 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.

9. 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 12 months to allow you sufficient time to secure employment as a registered nurse and give you sufficient time to strengthen your practice with conditions on your registration. This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 1 December 2022 in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether Ms Keenan's 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 on-table papers provided by Mr Burton on Ms Keenan's behalf. It has taken account of the submissions made by Ms Morrissey on behalf of the NMC and by Mr Burton on Ms Keenan's behalf.

Ms Morrissey submitted that it is impossible for Ms Keenan to demonstrate compliance with the conditions of practice order, as there is no confirmation that she are working in a clinical setting.

Ms Morrissey submitted that, although the development plan presented by Mr Burton presents the dates on when Ms Keenan took certain steps to strengthen her practice, there was no supporting contemporaneous documentary evidence. Further, she submitted that the plan was undated and appeared to be '*out of date*'.

Ms Morrissey submitted that the reflective piece Ms Keenan provided was also undated.

Mr Burton, on Ms Keenan's behalf, submitted that Ms Keenan has had significant issues with her broadband and mobile telephone, and therefore was unable to attend this hearing, and she is deeply frustrated by this.

Mr Burton submitted that Ms Keenan is fully committed to the process of returning to the nursing profession. He submitted that whilst the reflective piece is not dated, it was his understanding that Ms Keenan prepared this during the course of the last week and he said that Ms Keenan sent it to him by email on 19 October 2023.

Mr Burton submitted that Ms Keenan has recently suffered some difficult personal circumstances, and therefore has not had sufficient time to comply with the conditions on her practice.

Mr Burton submitted that Ms Keenan has secured employment that is due to begin next week at Boclair Care Home in Glasgow. Initially, she is due to work as a care staff member until the managers at the Home are satisfied that she can progress onto a nursing role.

Mr Burton submitted that Ms Keenan accepts that her fitness to practise remains impaired, and that she is requesting a continuation of the current conditions of practice order for a further period of 12 months. He submitted that this would allow Ms Keenan sufficient time to comply with those conditions and work for a substantial period of time.

The panel heard and accepted the advice of the legal assessor which included reference to the NMC Guidance on Substantive Order Reviews and 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 Ms Keenan's fitness to practise remains impaired.

The panel noted that Ms Keenan has been unable to gain employment in registered practice and that she has therefore not been able to demonstrate compliance with the conditions imposed by the previous panel. It also noted that Ms Keenan's insight into the impact of her conduct on patients and public remains limited.

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

'... the panel had sight of your reflective piece and it recognised the significant progress you have made. In this piece, the panel was of the view that you have demonstrated some understanding of your misconduct and that you have detailed how you would handle the situation differently in the future. However, the panel determined that your insight is focused on practical steps to deal with similar situations in the future. It considered that, in your reflective piece, you have not fully addressed the impact of your actions on patients, and you have shown a limited understanding of how your actions would impact negatively on the reputation of the nursing profession.'

The panel did not consider that Ms Keenan's reflective piece adequately addressed these concerns.

The panel did however acknowledge that Ms Keenan has been affected by recent personal circumstances which may have contributed to her inability to work.

In light of this, this panel determined that Ms Keenan remains 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, as a risk of harm to patients and the public remains.

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 Ms Keenan's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Keenan's 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 Ms Keenan's 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 Ms Keenan's 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 Ms Keenan's 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 Ms Keenan has been unable to comply with conditions of practice due to her current employment status and noted that she is engaging with the NMC and is 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 and no deep-seated attitudinal problems. In this case, there are conditions currently in place which would continue to 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 Ms Keenan's 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 1 December 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 limit your nursing practice to one substantive employer.
You must not work for an agency.
2. You must not be the nurse in charge of a shift or supervising other clinical staff.

3. You must work with your line-manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the concerns about your:

- Record keeping.
- Assessing, planning, evaluating and managing the nursing care for a caseload of patients.

You must:

- a) Send your case officer a copy of your PDP one month after starting employment and an up-to-date PDP before the review hearing.
- b) Meet with your line-manager, supervisor or mentor at least every week 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 before the review hearing. This report must show your progress towards achieving the aims set out in your PDP.

4. You must ensure that you are directly supervised by another registered nurse of at least band 6 until such time as your line-manager, mentor or supervisor has assessed you in being able to practise independently the skills identified in your PDP. Your supervision must consist of working at all times while being directly observed by another registered nurse.

Once your line-manager, supervisor or mentor has confirmed that you can practise independently, you must ensure that you are indirectly supervised by another registered nurse any time you are working. This must consist of:

- Working at all times on the same shift as, but not always directly observed by, another registered nurse.
- Weekly meetings with your line-manager, supervisor or mentor to discuss your clinical caseload.

5. You must keep the NMC 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.

6. You must keep the NMC 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.

7. You must immediately give a copy of these conditions to:

a) Any organisation or person you work for.

b) Any employers you apply to for work (at the time of application).

c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

8. 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.

9. 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 12 months. The panel considered this to be the shortest period necessary in order for Ms Keenan to strengthen her practice, noting her intention to start working at the Boclair Care Home in the near future.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 1 December 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 Ms Keenan has 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:

- Ms Keenan's attendance at a future hearing;
- A further reflective piece addressing the impact of her conduct on her patients, the nursing profession and the wider public;
- Recent testimonials from any employer in a nursing or care role in relation to her current practice.

This will be confirmed to Ms Keenan in writing.

That concludes this determination.