

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

**Substantive Order Review Hearing
Thursday 19 October 2023**

Virtual Hearing

Name of Registrant: Veronique Mettle

NMC PIN 06I0231E

Part(s) of the register: Registered Nurse – Sub Part 1
Children’s Nursing – 12 January 2007

Relevant Location: London

Type of case: Misconduct

Panel members: Clara Cheetham (Chair, lay member)
Judith McCann (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Cyrus Katrak

Hearings Coordinator: Catherine Blake

Nursing and Midwifery Council: Represented by Matt Kewley, Case Presenter.

Ms Mettle: Present and represented by Shona Love, Counsel.

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months) to come into effect on 28 November 2023 in accordance with Article 30 (1).**

Decision and reasons on review of the substantive order

The panel decided to vary the current conditions of practice order.

This order will come into effect at the end of 28 November 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh review of a substantive order in this case. On 17 March 2015, a panel of the Conduct and Competence Committee imposed a suspension order for a period of nine months. On 11 December 2015, the order was reviewed, and a conditions of practice order of 18 months was imposed. The conditions of practice order was extended by 12 months on 29 June 2017, and extended again by 18 months on 8 June 2018. On 20 December 2019, the conditions of practice order was varied with immediate effect, and a further conditions of practice order was imposed for a period of 18 months. On 7 June 2021 a further 18 month conditions of practice order was imposed. On 29 November 2022 a further 12 month conditions of practice order was imposed.

The current order is due to expire at the end of 28 November 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:

'That you, a registered nurse, whilst working as a Band 5 staff nurse at the Royal London Hospital on the Grosvenor A Ward ('the Ward') between 1 June 2010 and 20 July 2012,

2. On 18 April 2011,

a. demonstrated poor time management during your shift.

b. did not recognise that a patient's nasal cannula was attached to the emergency wall oxygen when it should not have been

c. had to be prompted during the beginning of your shift to carry out checks on patient

i. wound sites

ii. cannula sites

d. failed to demonstrate an understanding of commonly used drugs on the Ward, more specifically,

i. domperidone

ii. lansoprazole

3. On 26 September 2011,

a. failed to demonstrate an understanding of commonly used drugs on the Ward, more specifically,

i. domperidone

ii. omeprazole

4. On 18 October 2011, prior to administering antibiotics to a patient, failed to carry out the required steps in that you

a. failed to carry out a patient identification check

b. failed to carry out an allergy check

5. On 5 November 2011, did not ensure emergency equipment was available for use in that you failed to notice that a facial oxygen mask was missing from the emergency oxygen beside a patient's bed.

6. *On 28 November 2011,*
- a. *failed to carry out adequate safety checks on the oxygen and suction for one or more patients in your care*
 - b. *behaved aggressively towards Ms 1 and/or called her a liar or words to that effect.*
7. *On 5 December 2011,*
- a. *acted unprofessionally in that you refused to communicate with Ms 1*
8. *Failed to comply with management requests, more specifically you,*
- a. *failed to complete your intravenous workbook*
 - b. *did not write a set of SMART objectives*

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

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

'The panel considered whether your fitness to practise remains impaired.

The panel noted that you are developing insight into how your actions impacted on the children in your care. With regards to time management, you demonstrated insight into the 'negative consequences' this might have but you did not elaborate as to what these might be for your patients and/or colleagues. In regards to the attitudinal concerns, the panel noted that in response to its questions that you have developing insight into the importance of professional behaviour with colleagues to maintain trust and instil confidence within the team and the wider profession. However, the panel noted that some statements within your reflective piece remains

deflective and self-centred. It therefore determined that your insight is limited and developing.

That said, the panel was reassured to see the positive character testimonial before it from your current employer, dated 11 November 2022, which states:

“She is Pro-active with her work. She is helpful to children and to staff. She will help with whatever is needed, she is happy to take children out on trips with other staff. She will happily complete the daily chores associated with residential care, will help out with personal care without complaint and her communication with children and staff is good. Her time keeping is perfect. Staff commented that she is lovely, kind, caring, happy and jolly ! They stated her character is good and they have no concerns about her care (none have ever been reported to me either). She will ask for guidance and help if she is unsure about something and works well on her own or within a team. This all corresponds with what I have observed and my deputy manager is in agreement.”

The panel acknowledge that you have worked within a health care setting for a number of years and that you have undertaken substantial training. However, you are yet to enrol upon a RTPP which, upon completion, would then allow you to comply with your conditions of practice order. In light of you being unable to comply with your conditions of practice order and thus demonstrate remediation, the panel determined that you remain liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.’

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

'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 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 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.

Whilst the panel noted that you have been subject to a condition of practice order for some time, it considered the fact that you have made positive efforts to enrol upon a RTPP, which upon completion, would allow you to begin compliance with a condition of practice order. The panel determined that the current conditions remain appropriate and practical and address the failings highlighted in this case. However, the panel determined to vary condition one and two by removing the requirement that your supervision must be carried out by a nurse of band 6 or above. The panel was of the view that this variation would provide the necessary degree of protection for the public, whilst also reducing the barrier for you to gain employment once you have completed a RTPP.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this time and would not be a reasonable response in the circumstances of your case due to the efforts you have made to secure a place upon a RTPP.

Accordingly, the panel determined to continue the following varied 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 by a registered nurse at 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.*

- 2. You must not undertake the administration of medicines, including intravenous therapy, unless supervised by a registered nurse, until you have been assessed and signed off by a mentor, who is a registered nurse, indicating that you are a safe practitioner and competent to;*
 - a. undertake the safe administration of medicines to include Intravenous therapy;*
 - b. undertake safe management of medical emergencies;*
 - c. work as part of a healthcare team.*

- 3. You must work with your mentor to create a personal development plan (PDP). Your PDP must address the concerns about:*
 - a. Administration of medicines including intravenous therapy.*

- b. *Management of medical emergencies including the correct use of equipment.*
- c. *Team working.*

4. *You must:*

- a. *Send your case officer a copy of your PDP within three months after you recommence employment as a registered nurse.*
- b. *Meet with your mentor at least every month to discuss your progress towards achieving the aims set out in your PDP.*
- c. *Send your case officer a report from your mentor every three months. This report must show your progress towards achieving the aims set out in your PDP.*

5. *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.*

6. *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.*

7. *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.*

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.'*

Decision and reasons on current impairment

Today's 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 bundle submitted on your behalf. It has taken account of the submissions made by Mr Kewley on behalf of the NMC. He submitted that, you are yet to demonstrate an ability to practise safely and effectively since the matters which gave rise to these proceedings. He acknowledged your good efforts to strengthen your practice and progress as outlined in the bundle, but submitted that, until you have been able to achieve a period of sustained practice as a nurse without issues, there continues to be a risk of repetition.

Mr Kewley submitted that it is not a mandatory requirement that you complete a return to practice course or a test of competence. He referred to NMC guidance SAN 3 C, which addresses how return to practice courses interact with conditions of practice. He submitted

that, according to the guidance, it would be inappropriate for a panel to rely on a return to practice course in place of a conditions of practice order, *'nor should a panel direct a nurse or midwife to complete a return to practice course or test of competence as part of an order'*.

Mr Kewley submitted the NMC position is that where registration has not lapsed (as in your case) a return to practice course or test of competence is not mandatory. However, Mr Kewley noted that completing a return to practice course may have positive persuasive value for future employers.

Mr Kewley then addressed the panel with regards to sanction. He submitted that the order as currently drafted does provide adequate protection to the public without being overly restrictive, and that the specific conditions are necessary to address the concerns that gave rise to proceedings.

Mr Kewley invited the panel to confirm the current interim conditions of practice order for 18 months to allow time for you to complete a return to practice course and then spend a significant period in nursing employment.

The panel also had regard to submissions from Ms Love, on your behalf.

Ms Love submitted you accept that your fitness to practise remains impaired as you have experienced difficulty trying to secure employment as a registered nurse, and have not yet been able to work under the current conditions of practice. She submitted that this is because the conditions of practice order has deterred potential employers from hiring you. In response to panel questions, you clarified that you have informed potential employers of the conditions of practice, and were told that they were too difficult to accommodate. She noted that scarcity of resources at the time due to the COVID-19 pandemic could have complicated employers' ability to hire you. Ms Love informed the panel that you feel valued by your current employer, and that while they could not offer you a nursing role due to the order being too restrictive, you were hopeful that you could be able to get a nursing job if the conditions were relaxed.

The panel asked for clarification about your current role and the role of drug administration within that. Ms Love, on your behalf, responded that you are a care assistant and healthcare support worker at band 3, She informed the panel that you are signed off to give oral medication, which is checked by two other members of staff of the same band or higher, and you are in training to give enteral medication with direct supervision.

Ms Love further submitted that you have struggled to secure a place in a return to practice course itself, specifically a clinical placement which is a requirement of the course. She informed the panel that you have applied to nine course providers, including your recent application to City University, and submitted that you were unsuccessful in the first eight due to the active conditions of practice order and your active PIN, which has not lapsed. She submitted that your place in the City University return to practice course had to be deferred to January 2024 as a clinical placement to start in September was not secured. She submitted that you suspected this is due to the conditions of practice order. She further submitted that there is as yet no confirmation of a clinical placement for the January intake, and that despite this, you remain keen and proactive to attend the return to practice course.

Ms Love submitted that in your reflective piece you acknowledged your shortfalls and commit to ensuring these are not repeated. Ms Love submitted that you are willing to learn and improve, as evidenced by the further training you have undertaken. She submitted that this together with your reflective piece demonstrated that you have insight into your previous shortcomings and have the necessary ability to remedy them and make significant progress doing so.

Ms Love invited the panel to confirm the current interim conditions of practice order for a period of 18 months to allow time for you to commence and complete the return to practice course, which will start in January 2024 if a placement can be secured. She said that the fact you have been accepted onto the course hopefully indicates that a placement will be available. In light of the extensive training you have undertaken and your progress, Ms Love suggested that the panel may be minded to vary conditions to be less stringent.

Ms Love submitted that condition 1 was the most difficult, and the requirement that you 'must be supervised at any time you are working' was taken literally by a potential

employer. She submitted that this was practically very difficult to achieve and invited the panel to consider varying the condition to specify that you must be supervised by a registered nurse any time you are administering medication or performing medical procedures. She further submitted that, as it currently stands, employers take issue with a need to be directly supervised at all times including when completing ordinary daily tasks such as administering breakfast to a patient. Ms Love said that you understood why the other conditions need to remain in place.

Mr Kewley reiterated the NMC's stance regarding the conditions of practice, and that condition 1 only requires direct supervision in relation to medication administration. He clarified that the requirement of another nurse being present rules out lone working, for example community nursing.

The panel asked how you would respond to constructive criticism around your practice from future colleagues. You responded, via Ms Love, that you are completely open to constructive criticism, and would be willing to accept any criticism, and gracefully, with the view to improve.

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 developing insight. At this hearing the panel has concluded that your insight has improved significantly. It noted today that you are open to constructive criticism, and *'would be willing to accept any criticism, and gracefully, with the view to improve'*. The panel also noted that you are clear in your reflective piece that you respect the outcome of your substantive hearing, notwithstanding the submissions made on your behalf by Ms Love in that *'you recall the issue with the staff member in a different way'*. The panel had regard to the very positive report from your current manager, and that you remain fully engaged with the NMC process.

The panel was of the opinion that you are clearly dedicated to the nursing profession, by way of your continued full engagement with proceedings, the training you have undertaken, as well as your efforts to secure a place on a return to practice course, and detailed reflective piece. As such the panel has concluded that you have demonstrated sufficient insight.

In its consideration of whether you had taken steps to strengthen your practice, the panel took into account the further training you have completed, including your recent acceptance into a return to practice course, and considered that you have done everything you can to facilitate your return to nursing practice.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel determined that, despite your improved insight, you have not been able to work as a registered nurse and practically demonstrate that you can practise safely, it was not satisfied that you were not liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.

The panel first considered whether to take no action but concluded that this would be inappropriate as you have not yet had an opportunity to demonstrate compliance with the current conditions of practice.

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 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 varied 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 noted the submissions from Ms Love that the current conditions of practice order might have been a factor in your inability to secure employment as a nurse. The panel accepted that you have been unable to comply with conditions of practice, but acknowledge that you have engaged fully with NMC proceedings and have demonstrated a willingness to comply with any conditions imposed.

On that basis, the panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest. The panel determined to vary condition 1 in line with the intention of the NMC, as clarified by Mr Kewley, to make it clearer to potential employers while still preserving public protection. The panel also identified that, with regard to condition 4, in the present circumstances of healthcare it would be more appropriate to extend the time between meetings with your mentor to every six weeks, and that a progress report provided by your mentor three weeks prior to the next review would be sufficient.

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. The panel is encouraged by your dedication and commitment to the NMC process, and given your clear indication that you wish to return to work as a registered nurse, a period of suspension would be wholly counterproductive, especially in light of your place in the return to practice course.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which will come into effect on the expiry of the current order, namely at the end of 28 November 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 work at all times on the same shift as, but not always directly observed by, a registered nurse.
2. You must not undertake the administration of medicines, including intravenous therapy, unless supervised by a registered nurse, until you have been assessed and signed off by a mentor, who is a registered nurse, indicating that you are a safe practitioner and competent to:
 - a. undertake the safe administration of medicines to include Intravenous therapy;
 - b. undertake safe management of medical emergencies;
 - c. work as part of a healthcare team.
3. You must work with your mentor to create a personal development plan (PDP). Your PDP must address the concerns about:
 - a. Administration of medicines including intravenous therapy.
 - b. Management of medical emergencies including the correct use of equipment.
 - c. Team working.
4. You must:
 - a. Send your case officer a copy of your PDP within three months after you recommence employment as a registered nurse.

- b. Meet with your mentor at least every six weeks to discuss your progress towards achieving the aims set out in your PDP.
 - c. Send your case officer a report from your mentor three weeks prior to the next review. This report must show your progress towards achieving the aims set out in your PDP.

- 5. 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.

- 6. 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.

- 7. 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.

- 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 18 months.

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.

The panel is encouraged by your dedication and commitment to further training. The panel has altered conditions to balance protection of the public with assisting you with your transition back into practice. However, if in time you are unable to fulfil those requirements, either in regard to working under these conditions or completing a return to practice course, you or your representative can apply for early review.

This will be confirmed to you in writing.

That concludes this determination.