

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

**Substantive Order Review Hearing
Thursday, 25 January 2024**

Virtual Hearing

Name of Registrant: Julie Masterson

NMC PIN 0812205E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 29 September 2008

Relevant Location: Lancashire

Type of case: Misconduct

Panel members: Denford Chifamba (Chair, Registrant member)
Claire Clarke (Registrant member)
Helen Kitchen (Lay member)

Legal Assessor: Gerard Coll

Hearings Coordinator: Maya Khan

Nursing and Midwifery Council: Represented by Terence Merck, Case Presenter

Mrs Masterton: Present and not represented

Order being reviewed: Conditions of practice order (3 years)

Fitness to practise: Impaired

Outcome: Vary and confirm the existing Conditions of Practice Order expiring on 13 March 2026 in accordance with Article 30 (1)

Decision and reasons on review of the substantive order

The panel decided to vary and confirm the conditions of practice order.

This order will end at the end of 13 March 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is an early review, requested by you. This is the first review of a substantive conditions of practice order originally imposed for a period of three years by a Fitness to Practise Committee panel on 14 February 2023.

The current order is due to expire at the end of 13 March 2026.

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:

On 8 January 2021:

- 1) failed to undertake the following baseline observations for Patient 1:
 - a) temperature
 - b) pulse
 - c) blood pressure
 - d) respiration
 - e) oxygen saturation

The panel found this charge proved by your admission.

- 2) Failed to inspect Patient 1's skin for pressure areas

The panel found this charge proved by your admission.

3) Failed to update Patient 1's care plans

The panel found this charge proved by your admission.

4) Copied the information from the community nursing assessment dated 03.01.2020 and used this to complete your assessment dated 8 January 2021

The panel found this charge proved by your admission.

5) Failed to record that you had not undertaken this assessment with Patient 1.

The panel found this charge proved by your admission.

6) Your actions at charges 4 and/or 5 were dishonest in that you knew you had not undertaken this assessment with Patient 1 and/or to create a misleading impression of the care given to Patient 1

The panel found this charge PROVED.

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

The original panel determined the following with regard to impairment:

'The panel determined that limbs a, b, c and d, of the Grant test are engaged.

The panel finds that Patient 1 was put at risk of harm as a result of your misconduct. The panel also finds that you brought the nursing profession into disrepute by copying a previous assessment from Patient 1's medical notes which would mislead anyone who read it. Your misconduct breached the fundamental tenets of the nursing profession. In light of the finding of charge 6 you have also acted dishonestly.

Regarding insight, the panel considered that in relation to charges 1-5 you have demonstrated developed insight. The panel took into consideration your admissions to charges 1-5, your acceptance that things went wrong in your care of Patient 1, your cooperation with the respective investigations for the Trust and NMC, and how your actions have impacted negatively on the reputation of the nursing profession. In the hearing, the panel heard your apology to Patient 1 and their family, your work colleagues, your family and friends, the Trust and NMC. The panel took into consideration the steps you have taken to develop your nursing practice, clinical skills and knowledge while working under indirect supervision in a supportive work environment.

However, in relation to charge 6, the panel found that your insight is still developing. It took into consideration that you still sought to deflect blame for your dishonest actions onto others citing lack of adequate supervision and training as the reason for your behaviour. Whilst the panel acknowledged that there were failings in your supervision, nonetheless, and for its reasons on facts, the panel was satisfied that this was not the cause of your dishonest behaviour.

The panel was satisfied that the misconduct found proved in the charges 1-5 is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account your reflective statements and work-related testimonials. The panel noted that three of the testimonials acknowledged the NMC proceedings and the others did not mention the incident which took place with Patient 1. The panel also noted that you are currently working in a clinical setting under indirect supervision and seeing patients. It noted that you are currently well supported by your line manager in your role and that a recent appraisal stated that the concerns outlined in these proceedings are being addressed. The panel also noted that you have taken on additional responsibilities such as creating health promotion display boards, taking part in providing training programs for staff and leading on a wellbeing initiative to arrange regular social events for work colleagues.

In relation to the misconduct found proved in charge 6, the panel acknowledged that it can be difficult to remediate cases of dishonesty. The panel also noted that the charges in the substantive hearing concluded in October 2022 are similar to those in this case, and that the events which gave rise to the current charges took place while you were practicing under an interim conditions of practice order. It noted that circumstances have changed since those events and you are now practising within an environment that you describe as supportive. However, you have only practised without direct supervision in a clinical setting from relatively recently. The panel did not consider that the misconduct has been entirely remediated, particularly given the finding of dishonesty and there remains a risk of repetition. In those circumstances, a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and 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 considered that there would be a loss of confidence in the NMC as a regulator if your failings and dishonesty were not marked. The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired’.

The original 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 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 placing 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 the SG, in particular the below factors which were applicable in this case:

- Identifiable areas of the nurse or midwife’s practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case, in relation to the specific elements which related to the concerns of your nursing practice, record keeping and a duty of candour. The panel accepted that you would be willing to comply with conditions of practice as evidenced by your current adherence to a substantive conditions of practice order that is in place from the October 2022 substantive hearing.

The panel had regard to the fact that these incidents happened in January 2021 and the events of the findings made at the substantive hearing, in October 2022, took place in March 2016. It noted the lapse of time between the two incidents. The panel bore in mind that your professional circumstances have now changed and that you are well supported by your colleagues and line manager. It noted the positive testimonials you have received from your colleagues. The panel noted the public interest in retaining effective and compassionate nurses to practise in a safe and controlled environment. Further, it was of the view that a fully informed member of the public would be reassured if you were to return to nursing practice with appropriate safeguards and supervision.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order. The panel bore in mind that you are in a period of rehabilitation in which you have made significant progress and that you have not demonstrated any further issues with regard to your clinical practice since you have returned to nursing practice in the Treatment Room at the Trust.

The panel carefully considered whether the imposition of a suspension order was appropriate in the circumstances. The panel bore in mind that the dishonesty charge was found proved in this case but that the panel determined it to be at the lower end of seriousness on the dishonesty spectrum. It noted that you have responded well to training and reflection in relation to duty of candour. The panel was of the view that it was disproportionate to remove you from nursing practice when you have been working safely and effectively since returning to practice in the Treatment Room. The panel was of the view that a conditions of practice order would adequately mark the seriousness on the grounds of public protection and public interest.

The panel was of the view that to impose a striking-off order would be punitive and disproportionate and would not be a reasonable response in the circumstances of your case. The panel did not consider your actions to be incompatible with remaining on the NMC register. The panel bore in mind your engagement with the NMC processes throughout the NMC proceedings. In respect of charges 1-5 the

panel took into consideration your admissions and insight and in respect of charge 6, your developing insight. It noted that you have been subject to a substantive conditions of practice order which your current line manager has provided you with support for since its imposition and that there have been no issues so far. It also had regard to the positive testimonials from your manager and other workplace colleagues, and the level of trust shown in your appointment as a safeguarding champion.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions 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. Before your case is reviewed, you must send your case officer a reflective piece on your learning on the duty of candour and how you have applied this in your practice. It should also include a reflection on the impact that copying past patient notes without reviewing the patient’s current health status has on patient care, communication with colleagues, and the wider public interest.*
- 2. You must work with your line manager to create a personal development plan (PDP). Your PDP must address:*
 - Your adherence to the duty of candour and*

- *How you ensure accurate record keeping and conduct up to date clinical patient assessments.*

You must:

- i) Send your case officer a copy of your PDP before your case is reviewed.*
 - ii) Meet with your line manager monthly to discuss your progress towards achieving the aims set out in your PDP.*
 - iii) Send your case officer a report from your line manager before your case is reviewed. This report must show your progress towards achieving the aims set out in your PDP.*
- 3. You must ensure that you are supervised any time you are working. Your supervision must consist of:*
- i) Working at all times on the same shift as, but not always directly observed by, a registered nurse of Band 6 or above.*
 - ii) If undertaking a new procedure, or an unfamiliar skill area in which you are not signed off as competent, you must seek direct supervision by a Band 6 nurse or above for this task.*
- 4. 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.*
- 5. 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.*

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 the maximum term of three years. The panel bore in mind that the charges outlined in this case took place whilst you were subject to an interim conditions of practice order and it was of the view that an order for this

period of time would enable you to demonstrate a sustained period of safe nursing practice. The panel also considered that this period of time would mark the seriousness of your behaviour and reassure the public that your inappropriate conduct has been addressed by your regulator.

Before the order expires, 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.'

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 had regard to all of the documentation before it, including the NMC bundle and your bundle including your reflective statements, one to one documentation with your manager and your personal development plan. It has taken account of the submissions made by Mr Merck, on behalf of the NMC, and you.

Mr Merck outlined the background of the case and reminded the panel of the decision taken at the substantive hearing. He went through the charges found proved and admitted at the substantive hearing.

Mr Merck explained that there were two cases linked to each other. He submitted that whilst the two cases are factually different, the concerns and matters found proved are very similar. In relation to the first linked case, Mr Merck said that your fitness to practise was found no longer impaired and a decision to revoke the conditions of practice order was made on 17 October 2023.

Mr Merck informed the panel that whilst under your current conditions of practice order in relation to the second case, a new incident took place in January 2024. He submitted that this incident involved you providing incorrect care to a patient because of you failing to check the patient's medical records.

Mr Merck invited the panel to consider the new information before it today including your reflections and your personal development plan. He submitted that your position is that you have remediated the concerns identified in your nursing practice.

Mr Merck submitted that it is a matter for the panel's independent judgement to assess whether you have complied with the conditions of practice order, remain impaired and what sanction is appropriate. He submitted that an increase of sanction at this time would not be appropriate as there has been engagement with your conditions of practice order.

You submitted that you have remedied the issues identified in your nursing practice as your conditions of practice order has recently been revoked. You invited the panel to revoke the conditions of practice order today. You said that this has been going on now for approximately seven years of your life and you are unable to move forward.

You submitted that your conditions of practice order is limiting your progress in your clinical career. You said you cannot work for any other company, and you cannot attend external training due to these conditions.

You said that you want to be able to move to Liverpool and work as a nurse there but you cannot because of the conditions of practice order.

You submitted that you have engaged throughout the NMC proceedings and you have complied with the conditions. You said that you have had monthly one to one meetings with a Band 6 nurse. You submitted your personal development plan today and you updated it with two reflections monthly, one in relation to record keeping and the other regarding duty of candour. You said that you have an appraisal workbook however you have not got this with you today. You submitted that you have completed your revalidation in September 2023 and you are up to date with all of your mandatory training.

You told the panel that you are booked onto the catheter care refresher course. You said that you are considering doing more research through the National Institute for Health and

Care. You said that in the past couple of weeks you have started auditing record keeping, going through colleagues notes and making sure colleagues are documenting everything correctly.

The panel asked what you have learnt from the incidents involving duty of candour and what duties have you been involved in relating to duty of candour. You responded to this by saying that a duty of candour is being open and honest with the public at all the times and if anything were to go wrong, let the patient know straight away. You said that there was an incident in May 2023 which demonstrates your duty of candour, you informed the Band 6 nurse and discussed your findings with the patient. You also apologised to the patient about this experience.

The panel asked how you have complied with condition 2 regarding record keeping. You submitted that you understand the importance of delivering care safely and effectively and records must not be altered in any way as this will have a negative impact on the profession. You said that communication with colleagues and keeping accurate clear records enables you to provide effective care to patients. You accepted that your actions were unprofessional, and they negatively impacted your colleagues and patients. You said thankfully no harm was caused to a patient, but you have learnt from it and will never do this again.

In response to questions about your PDP, you said that your PDP is ongoing and continues to be updated.

In response to you complying with condition 3 regarding supervision, you said there are always a Band 6 nurses on duty across different clinical rooms.

In response to panel's questions regarding the recent incident in January 2024, you outlined the context. You said that a patient arrived with lower limb assessment, patient records were not checked and therefore 'we' (you and an Assistant Practitioner (AP)) applied compression bandaging which should have never taken place due to the patient being diabetic. You said to the panel that you acknowledge your part in the incident and there have been numerous occasions where compression bandaging has been applied wrongly by staff. You said that you and other colleagues began questioning your skills and you collectively feel you need to be re-educated and attend further training regarding this incident.

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

The panel considered whether your fitness to practise remains impaired.

The panel acknowledged your acceptance of your misconduct, and your care being below the standards expected of a nurse. The panel acknowledged your efforts and compliance with condition 1 by producing reflective statements and condition 2 by creating a personal development plan although it noted this was continuous and had not been signed off. However, it was mindful that you did not comply with condition 2 (iii) as you did not provide reports from your manager regarding your progress. It also acknowledged your compliance with condition 3 and noted your submissions where you provided detail about the number of Band 6 nurses supervising you in the department.

The panel then went on to consider the recent incident in January 2024 where you provided treatment to a patient which was contraindicated because the patient was diabetic. The panel was concerned that patient harm occurred because of your failure to check the patient's medical notes prior to treatment therefore you did not undertake a full assessment of the patient. You told the panel on questioning you knew that diabetics should not have compression bandaging applied but you had not read the past medical history in the medical notes.

It noted that despite the new information you produced today in relation to your PDP action on assessment (lower limb assessment – looking at clients holistically) and the importance of records and record keeping, this incident demonstrates a failure to put this stated knowledge of understanding into practise.

In relation to your insight, the panel asked a number of questions to seek to explore your current level of insight. It noted that you struggled to articulate why the mistakes and omissions occurred and that your focus was on the impact of the conditions of practice order on yourself and not for the purpose which it had been imposed. It noted you considered the conditions of practice order to be a barrier to progressing in your career. In relation to the recent incident in January 2024, the panel noted your insight was limited as you said *“after the incident, we all started questioning our knowledge and skills”*, you repeated the word *“we”* demonstrating an apparent failure to take professional accountability for this incident.

In these circumstances, the panel considered that in addition to not having met all of the conditions on your practice, and taking account of the incident in January 2024, you remain liable to put patients at risk of harm, through a failure to fully assess patients including the checking of past medical history. The panel considered that a risk of repetition was likely, and therefore determined that a finding of impairment remained 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 practise. 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 not protect the public and would be inappropriate. 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 panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a 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 considered your compliance with the current conditions, and it was satisfied that you had addressed the concerns surrounding duty of candour. However, the panel was mindful of the new incident that

occurred in January 2024 involving your failure to conduct a review of the patient's medical history as part of the clinical patient assessment. It considered that varying the conditions of practice order would provide you with the opportunity to address the identified concerns in your practice. The panel noted your submissions regarding your difficulties progressing in your career due to the conditions of practice order. However, the panel considered that the conditions were not onerous and were the minimum restriction required to protect the public from the risk of harm identified in this case. It considered that it was necessary to vary the current conditions of practice order.

The panel considered that varying and confirming the conditions of practice order would give you sufficient time to address the concerns identified in your practice and demonstrate insight and full compliance to a future reviewing panel.

The panel considered whether a suspension order or a striking off order would be an appropriate order in your case but concluded that it would be disproportionate at this time as the concerns are remediable and you have shown compliance with the majority of the conditions of practice order.

Accordingly, the panel determined, pursuant to Article 30(1), to vary and confirm the existing conditions of practice order. The varied conditions are as follows:

'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) Before your case is reviewed, you must send your case officer a reflective piece on the impact of not reviewing a patient's medical history when completing a full clinical patient assessment.
- 2) You must work with your line manager to create a personal development plan (PDP). Your PDP must address:
 - How you ensure undertaking full holistic clinical patient assessment.

You must:

- i) Send your case officer a copy of your PDP before your case is reviewed.
 - ii) Meet with your line manager monthly to discuss your progress towards achieving the aims set out in your PDP.
 - iii) Send your case officer a report from your line manager before your case is reviewed. This report must show your development progress towards issues identified in your previous PDP and your new PDP.
- 3) You must ensure that you are supervised any time you are working. Your supervision must consist of:
- i) Working at all times on the same shift as, but not always directly observed by, a registered nurse of Band 6 or above.
 - ii) If undertaking a new procedure, or an unfamiliar skill area in which you are not signed off as competent, you must seek direct supervision by a Band 6 nurse or above for this task.
- 4) 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.
- 5) 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.
- 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

Before the order expires, 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. You have the opportunity to request an early review if your circumstances change.

This will be confirmed to you in writing.

This concludes the determination.