

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

**Substantive Order Review Hearing  
Tuesday, 2 April 2024**

Virtual Hearing

**Name of Registrant:** Matthew Patrick Brannigan

**NMC PIN** 10K1468E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 21 February 2011

**Relevant Location:** Nottinghamshire

**Type of case:** Lack of Competence

**Panel members:** Judith Webb (Chair, Lay Member)  
Sharon Haggerty (Registrant Member)  
Clare Taggart (Lay Member)

**Legal Assessor:** Marian Gilmore KC

**Hearings Coordinator:** Angela Nkansa-Dwamena

**Nursing and Midwifery Council:** Represented by Ed Carey, Case Presenter

**Mr Brannigan:** Present, but not represented

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

**Fitness to practise:** Impaired

**Outcome:** **Varied conditions of practice order (12 months) to come into effect at the end of 28 April 2024 in accordance with Article 30 (1).**

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

[PRIVATE]

## **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 April 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 25 September 2017. The order was first reviewed on 20 September 2018, when a further suspension order for a period of 12 months was imposed. It was reviewed again on 18 September 2019, when the suspension order was extended for a further six months. The third review took place on 31 January 2020, when the order was extended again for a further six months. On 23 September 2020, the suspension order was replaced with a conditions of practice order for a period of 24 months. On 25 October 2022, the conditions of practice order was replaced with a suspension order for a period of six months. The order was last reviewed on 20 April 2023, where it was replaced with a conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 28 April 2024.

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, whilst employed as a registered nurse on the 'Out of Practice/Return to Practice Programme' ("OOP") at Nottinghamshire Healthcare Trust ("the Trust"), between approximately 14 March 2016 and 31 July 2016, failed to demonstrate the*

*standards of knowledge, skill and judgement needed to complete the OOP and meet the competencies of a Band 5 nurse, in that:*

- 1. On or about 14 March 2016 you were unable to attach a catheter bag to a patient's leg with a Velcro strap.*
- 2. On one or more occasions you were unable to use a hoist sling to lift a patient, despite having been repeatedly shown how to use the hoist and/or having undertaken manual handling training.*
- 3. On a date in or around March or April 2016, you inappropriately placed a patient's heel, which had a Stage Three pressure ulcer, in direct contact with a stool, rather than elevating the heel over the stool to relieve the pressure.*
- 4. On or about 17 April 2016, you failed to take adequate action when a patient collapsed, in that you:*
  - a) did not pull the emergency bell;*
  - b) stood back when Mr 1, Band 3 Senior Healthcare Assistant, came over to see the patient;*
  - c) did not assist Mr 1 to move the patient onto her bed, despite Mr 1 asking you to do so;*
  - d) did not retrieve the blood pressure machine, despite Mr 1 asking you to do so;*
  - e) stated to Mr 1, words to the effect to that, you did not know where the blood pressure machine was.*
- 5. In May 2016, you were unable to carry out one or more patient handovers to Mr 1 beyond providing Mr 1 with the information which was already written on the handover sheets.*
- 6. On or about, 5 May 2016, you gave a patient a plate of dinner without having adequately checked the transfer sheet for the patient's dietary needs.*

7. *On one or more dates when Ms1, Band 5 Nurse, asked you to complete a social work referral form including details of the names and/or addresses of the patient's next of kin, you refused to do so without Ms 1's supervision and/or despite having been shown how to do so.*
  
8. *On one occasion when Ms 1, Band 5 Nurse, asked you to prepare a non-complex dressing for a patient, you stated, words to the effect that you needed Ms 1's supervision, when you had previously done such a dressing before under supervision and/or had been assessed as competent to do this type of dressing.*
  
9. *On or about 15 May 2016, when Ms 1, Band 5 Nurse, asked you to carry out a bladder scan on a patient:*
  - a) *you were unable to do so without supervision;*
  - b) *after Ms 1 started to supervise you, you did not know how to turn on the machine and/or know where to put the probe, despite being shown how to carry out the scan previously;*
  - c) *...*
  
10. *On or about 15 May 2016, in response to a question from Ms 1 regarding administering an enema and/or carrying out a rectal exam on a patient, you stated words to the effect that;*
  - a) *you had given an enema and/or carried out a rectal exam previously; and/or*
  - b) *you would lie the patient on their right side to carry out an enema, when you knew or ought to have known this could result in a perforated rectum.*
  
11. *...*
  
12. *After 23 May 2016:*
  - a) *you started working at below a Band 2 level;*
  - b) *on one or more occasions you had to check with a Health Care Assistant whether you needed to undertake patient observations.*

13. *On or about 29 June 2016, at another meeting to discuss your progress with the OOP, you stated, words to the effect, that there was nothing wrong with your practice.*

14. *You were unable to satisfactorily complete the OOP and/or meet the competencies of a Band 5 nurse.*

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

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

*'In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the PDP, training certificates and testimonials provided together with your reflections. The panel determined that you have taken some steps in an effort to strengthen your practice but, because you have not been working as a registered nurse these steps have been limited and you have not been able to strengthen your practice.*

*This panel has received the documentation as outlined above. It noted the training certificates provided and determined that these are general in nature and do not address the areas of concern outlined in the original charges. The panel therefore determined that this training does not deal with the risk of repetition. It also noted that whilst the testimonials provided were positive, they only related to your role as an HCA and therefore the panel determined that these testimonials are not sufficient to determine that a finding of impairment is not necessary. In light of this the panel determined that you are 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 was mindful that the proceedings have been ongoing for over five years since you were first referred to the NMC. It noted that the charges found proved in this case might not ordinarily lead to a suspension or striking off order, but your actions and inactions since the imposition of the order was a cause for serious concern. The panel considered extending the current suspension order but felt that a further period of suspension, after so many, would serve no purpose. The panel also seriously considered a striking off order due to the length of time and limited progress that has been made since this matter began. However, in today's hearing you have demonstrated a willingness to strengthen your practice and have made some efforts to address the concerns identified. It therefore decided 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 wish to make it clear that if you decide to disengage with the NMC and the conditions, this may indicate attitudinal concerns, and a future reviewing panel would be likely to consider that a conditions of practice order would no longer be sufficient to protect the public and satisfy the public interest.*

*The panel therefore 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 undertake an NMC approved return to practice course prior to undertaking any nursing duties.*
- 2. You must limit your nursing practice to day duties only at one substantive employer in an NHS setting and you must not be the nurse in charge of a shift;*
- 3. You must ensure that you are working under the direct supervision of a Band 6 nurse or above at any time whilst working as a registered nurse.*
- 4. You must work with your supervisor or their deputy to create a personal development plan (PDP). Your PDP must in particular address the following regulatory concerns:
  - a) Patient moving and handling;*
  - b) Tissue viability;*
  - c) Assessing the acutely ill patient and escalation;*
  - d) Medicines administration and management – this must include undertaking a medications administration assessment; and*
  - e) Patient assessment, assessment of risk and patient handover;**

*You must also:*

- i. Meet with your supervisor or their deputy every two weeks to discuss your progress towards achieving the aims set out in your PDP;*
- ii. Send your case officer a verification of the completed return to practice programme along with your PDP 28 days before any NMC review hearing; and*
- iii. Send your case officer a report from your supervisor or their deputy 28 days before any NMC review hearing. This*

*report must show your progress towards achieving the aims set out in your PDP.*

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 NMC 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 NMC 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 twelve months. The panel determined this would be an appropriate length of time to support you in your return to nursing practice and to gather evidence that you have compiled with the current conditions of practice order in preparation for the next review hearing.'*

### **Decision and reasons on current impairment**

The panel 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 carried out a comprehensive review of the order in light of the current circumstances. Whilst it noted the decision of the last panel, this panel 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 documentation. It took into account the submissions made by Mr Carey.

Mr Carey briefly outlined the background for the panel and referred it to the relevant pages within the bundle. He submitted that your fitness to practise remains impaired on public protection grounds. Mr Carey further submitted that it is suggested that the current conditions of practice order can continue, with a potential amendment to Condition 3 with words to the effect of '*Save for meeting the requirements of an NMC approved Return to Practice course (RtP)*'.

Mr Carey submitted that all the charges, except Charges 9c and 11 were found proved and there were a variety of basic nursing acts and steps that were not carried out by you, including not being able to attach a catheter bag or use a hoist sling, amongst many others. He submitted that the previous panel determined that a 12-month conditions of practice order was a proportionate sanction as you had engaged. However, the previous panel had made it clear that any failure to engage with the conditions may indicate attitudinal concerns.

Mr Carey highlighted that the previous panel identified four areas which could assist a future panel. These included:

- Your continued engagement.
- Evidence of a Professional Development Plan (PDP) as outlined within the conditions.
- A reflective piece to demonstrate your insight.
- Testimonials from your colleagues.

Mr Carey submitted that the conditions include a requirement for you to complete a Return to Practice (RtP) course and for you to be directly supervised by a Band 6 nurse. He submitted that you have provided a statement and supporting emails which show that you have applied for a RtP course at three different universities. Mr Carey submitted that despite you being initially successful with your application to Sheffield Hallam University, the offer was withdrawn as it appears that Conditions 1 and 3 are incompatible and they are unable to support direct supervision by a Band 6 nurse.

Mr Carey submitted that although it cannot be said that you have demonstrated that the level of risk has decreased, it would be appropriate to amend the current conditions of practice order to enable you to continue to engage and take the appropriate steps to address the concerns.

You told the panel that you would like to go back to nursing and that Sheffield Hallam University had offered you a place on the RtP course in September 2023. However, you explained that you had been informed that the condition of working under the direct supervision of a Band 6 nurse was not workable in the context of a RtP course. You asked

the panel to kindly consider amending Condition 3 and if this were to be granted, you would reapply for the RtP course at Sheffield Hallam University.

You explained to the panel that you have been open and transparent from the outset, and you have explained your situation, but you were keen to put this matter *'to bed'* and go forward.

In response to panel questions, you stated that if the amendment were to be made, you would reapply for the RtP course as soon as possible, as early as this evening. You told the panel that Manchester Metropolitan University's intake for the RtP course was the end of May 2024 and that you had the course leader's email address for Sheffield Hallam.

You told the panel that it was your understanding that as a student on the RtP course, you would be in a supernumerary role and would be under the direct supervision of a registered nurse (a minimum of a Band 5). You informed the panel that you have been working with a healthcare agency for the past eight years, working in nursing homes and in mental health facilities.

You told the panel that you have been keeping your *'hand in'* by working in healthcare and you have built up your confidence. You said that you are keen to set the record straight and [PRIVATE] would want you to finally put this matter to rest. You stated that you have had a terrible 12 months, but your employer had been very supportive of you, but now you are ready to lift yourself up and move forward. You told the panel that you want to be that nurse that was deemed to be competent many years ago when you first qualified and although you have fallen short due to the circumstances you found yourself in, you are keen to go forward.

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 had regard to NMC guidance (*references DMA-1, REV-3 and 3a*). The panel was of the view that at present, you cannot practice safely and a restriction on your practice is necessary to protect the public.

The panel had regard to your reflective piece however, it concluded that you were still liable to put a patient at an unwarranted risk of harm, to breach the fundamental tenets of the nursing profession and you were highly likely to repeat the conduct. The panel noted that the concerns were wide ranging and involved fundamental aspects of nursing practice. The panel was concerned that you may be drifting further from the standards expected of you due to the length of time you have been out of practice. The panel considered that it had limited information before it to suggest that you have addressed the concerns, strengthened your practice or made significant progress since the order was initially imposed. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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

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

### **Decision and reasons on sanction**

Having found your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel also took into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that there were identifiable areas of your practise that could be addressed with a conditions of practice order and it noted that you have been engaging and you say you are willing to undertake the required training, namely the RtP course. The panel noted that you had provided evidence of your applications and that you had been successful in obtaining a place on a RtP course at Sheffield Hallam University. However, this offer was withdrawn because Condition 3 was deemed to be incompatible with the course, as the university was unable to meet the requirement of direct supervision by a Band 6 nurse.

The panel was of the view that a conditions of practice order is sufficient to protect patients and the wider public interest. The panel considered the submissions of Mr Carey and yourself and decided to amend the wording of Condition 3 and to remove Condition 1. In this case, there are conditions which could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case as you have demonstrated that you are committed to becoming a safe and

effective practitioner and you have expressed a desire to return to the nursing profession and have taken steps to achieve this by applying for a RtP course.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to vary the current 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 28 April 2024.

The panel decided to impose the following varied conditions which it considers 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 day duties only at one substantive employer in an NHS setting and you must not be the nurse in charge of a shift;
2. You must ensure that you are working under the direct supervision of a registered nurse (Band 5 or above) at any time whilst working as a registered nurse.
3. You must work with your supervisor or their deputy to create a personal development plan (PDP). Your PDP must in particular address the following regulatory concerns:
  - a) Patient moving and handling;
  - b) Tissue viability;
  - c) Assessing the acutely ill patient and escalation;
  - d) Medicines administration and management – this must include undertaking a medications administration assessment; and
  - e) Patient assessment, assessment of risk and patient handover;

You must also:

- i. Meet with your supervisor or their deputy every two weeks to discuss your progress towards achieving the aims set out in your PDP;
  - ii. Send your case officer a verification of the completed return to practice programme along with your PDP 28 days before any NMC review hearing; and
  - iii. Send your case officer a report from your supervisor or their deputy 28 days before any NMC review hearing. This report must show your progress towards achieving the aims set out in your PDP.
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 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.

7. You must tell your NMC 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 NMC 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 length of this order is for a period of 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 28 April 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

This will be confirmed to you in writing.

That concludes this determination.