Conduct and Competence Committee

Substantive Order Review Meeting

27 April 2017

NMC, 2 Stratford Place, Montfichet Road, London E20 1EJ

Name of Registrant Nurse: Ms Mary Reid Easton

NMC PIN: 95C0192S

Part(s) of the register: Registered Nurse (Sub Part 1)
Adult (March 1998)

Area of Registered Address: Scotland
Type of Case: Misconduct

Panel Members: Andrew Gell (Chair/ Lay member)
Frances Clarke (Registrant member)
Jacqueline Pearce (Lay member)

Legal Assessor: Breige Gilmore

Panel Secretary: Azra Karup

Order to be reviewed: Conditions of practice order, 24 months
(expires on 6 June 2017)

Decision: Striking-Off Order, to come into effect at the expiry of the current order (6 June 2017)
Service of Notice of meeting

The panel first considered whether Notice of this meeting has been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004.

A notice informing Ms Easton about the NMC’s intention to review her substantive suspension order at a meeting rather than at a hearing was posted to her registered address 14 March 2017 via recorded delivery and first class post. That notice asked Ms Easton to respond by 18 April 2017 to indicate whether she wanted her case to be reviewed at a hearing rather than a meeting. The notice stated that if no response was received, the review would be scheduled for a meeting to take place on or after 24 April 2017.

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

The panel is satisfied that by sending notification of the meeting to her registered address Ms Easton has been served with Notice in accordance with the requirements of the Rules.

Decision and reasons:

The panel noted that this meeting was listed as a mandatory review, in accordance with Article 30(1) of the Nursing and Midwifery Order 2001. This is the third substantive order review hearing of this case which was imposed on 5 November 2012. At the review hearing on 5 November 2013 a panel of the Conduct and Competence Committee imposed a conditions of practice order on Ms Easton’s registration for a period of 18 months. This order was then reviewed on 30 April 2015 and the order was extended for a further two years. The current order is due to expire on 6 June 2017.
The matters that gave rise to the finding of impairment in November 2012, occurred between July 2009 and January 2010, whilst Ms Easton was employed as a Deputy Home Manager at Hilton Gardens Care Home (“the Home”). The charges found proved related to three instances of Ms Easton making records in patients’ charts when she was not on duty, her failure to update the care plans for eight patients and the use of unnecessary force towards a vulnerable patient in her care.

The panel that conducted the substantive hearing (the substantive hearing panel) found Ms Easton’s fitness to practise was impaired by reason of her misconduct. That substantive hearing panel imposed a 12 month suspension order. When dealing with the issues of impairment and sanction, that panel noted that Ms Easton had limited insight into her conduct and that there was a real risk of repetition and risk of patient harm should she be allowed to continue to practise without restriction. It had identified, in particular, that the failings involving record keeping had the potential to be remediated. However it had serious concerns regarding Ms Easton’s attitude and behaviour.

The substantive hearing panel concluded that the imposition of a suspension order for a period of twelve months would be sufficient to mark her misconduct and uphold the public interest in the high standards of the profession and public confidence in the NMC as a regulator.

The last reviewing panel decided to extend the following conditions of practice order on 30 April 2015:

1. You must notify the NMC within 14 days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.

2. You must inform the NMC of any criminal or professional investigation started against you and any criminal or professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.
3. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.

b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

4. At any time that you are employed or otherwise providing nursing or midwifery services, you must place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer.

5. You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan specifically designed to address the deficiencies in the following areas of your practice:

I. record keeping, in particular care plan documentation.
   1) be able to demonstrate an understanding of relevance and importance of accurate and contemporaneous record keeping.
   2) be able to demonstrate that you are able to competently prepare care plans to ensure patient care is delivered appropriately.

II. provide evidence of safe and appropriate practice in the physical handling of vulnerable patients.

III. using an recognised reflective model, to explore issues including thoughts, actions and beliefs in relation to record keeping and the physical handling of vulnerable patients.
6. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 4 weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.

7. You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.

8. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan to the NMC at least 14 days before any NMC review hearing or meeting.

9. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.

10. You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.
11. You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC’s fitness to practise procedures, and disclose the conditions listed at (1) to (10) above, to them:

I. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work
II. Any agency you are registered with or apply to be registered with (at the time of application)
III. Any prospective employer (at the time of application)
IV. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

This panel first considered whether Ms Easton’s fitness to practise remains currently impaired.

It heard and accepted advice from the legal assessor.

The panel has exercised its own judgment and has considered the overarching objective of the NMC namely to protect, promote and maintain the health, safety and well-being of the public and patients and the wider public interest. The wider public interest 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 noted that Ms Easton has not engaged with the NMC, and there is no evidence before the panel which could satisfy it that Ms Easton has remediated her practice. She last communicated with the NMC in a letter dated 28 April 2015, in which she has indicated that she has not returned to nursing since the order was first imposed and that she does not intend to return to nursing. In the absence of any evidence to demonstrate that there has been any change in circumstances, the panel decided that Ms Easton’s fitness to practise remains impaired.

The panel then considered what, if any, sanction to impose in this case.
The panel heard and accepted the advice of the legal assessor.

The panel has taken into account the NMC’s Indicative Sanctions Guidance (June 2016). The panel 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 noted that its powers are set out in Article 30(1) of the Nursing and Midwifery Order 2001. The panel first considered whether to let the current order lapse and take no further action but decided that it would not be appropriate in this case, given the seriousness of the charges found proven.

The panel then went on to consider a caution order. Given the nature of the charges found proven, and the significant departure from the standards set out in the Code, the panel concluded that a caution order would not be an appropriate sanction. It would neither protect the public, nor would it be in the public interest.

The panel next considered whether to continue the current conditions of practice order. The panel noted that Ms Easton has disengaged from the NMC process and had expressed a desire not to return to nursing. It appears that Ms Easton has maintained her position and that no longer wishes to pursue her career in nursing. The panel concluded that there is no real likelihood that, given a further period of a conditions of practice order, Ms Easton would decide to take advantage of such an order for the purpose of taking steps to remediate her behaviour and return to nursing. In the absence of any further information as to Ms Easton’s current employment status or her intentions for the future, and in light of her complete lack of engagement with the NMC, the panel determined that to continue the conditions of practice order would not be appropriate.

The panel then considered whether to replace the current order with a suspension order. The panel noted the reasons given at the last review hearing:

“This should allow Ms Easton sufficient time, should she decide to return to nursing practice, to complete the return to practise programme and find suitable employment.
“as a registered nurse with an employer that is willing to support her to fully comply with the conditions.”

The panel considered that it has now been five years since Ms Easton has last practised as a nurse and that she has not used the opportunity to remedy her deficiencies, nor has she engaged with the NMC in any way since 2015. In light of this, the panel was of the view that it is highly unlikely that any information from Ms Easton would be forthcoming in the future, and concluded that extending the current conditions of practice order would not be the appropriate response in this case. It determined that there was no public interest in continuing to review the order when there is no realistic prospect of a positive outcome. A period of suspension would be likely to lead to further futile correspondence from the NMC to Ms Easton, and the expenditure of resources and cost of further review hearings which would achieve nothing.

The panel decided that a striking off order would sufficiently protect the public, and bore in mind its duty to deal with this matter expeditiously.

The panel concluded that imposing a suspension order would serve no purpose, given Ms Easton’s complete lack of engagement, and that in all the circumstances of this case a striking off order is the appropriate and proportionate response.

This decision will be confirmed to Ms Easton in writing.

That concludes this determination.