

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

Substantive Order Review Meeting

29 July 2019

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant: Mrs Christine Watts

NMC PIN: 78A0154S

Part(s) of the register: Registered Nurse – sub part 1
Mental Health Nursing (17 April 1983)
Registered Nurse – sub part 2
General Nursing (4 October 1979)

Area of Registered Address: England

Type of Case: Misconduct

Panel Members: Edward Lucas (Chair, Lay member)
Deborah Hall (Registrant member)
Colin Sturgeon (Lay member)

Legal Assessor: John Bromley-Davenport

Panel Secretary: Anjeli Shah

Order being reviewed: Suspension Order for 6 months

Fitness to Practise: Impaired

Outcome: Striking-Off Order to come into effect at the end of 11 September 2019 in accordance with Article 30 (1)

Decision on Service of Notice of Meeting:

Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (“the Rules”) state:

‘11A.(1) Where a meeting is to be held in accordance with rule 10(3), the Fitness to Practise Committee shall send notice of the meeting to the registrant no later than 28 days before the date the meeting is to be held.

*34.(3) Any other notice or document to be served on a person under these Rules may be sent by—
(a) ordinary post’*

The panel considered whether notice of this meeting has been served in accordance with the Rules.

Notice of this substantive order review meeting was sent to Mrs Watts’ registered address on 5 June 2019 by recorded delivery and first class post. The panel is satisfied that the notice was sent at least 28 days in advance of this meeting. The panel therefore finds that notice has been served in accordance with the Rules.

The panel also noted that notice of this substantive order review meeting was delivered to Mrs Watts’s registered address on 6 June 2019.

Decision and reasons on review of the current order:

The panel decided to impose a striking-off order. This order will come into effect at the end of 11 September 2019 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (“the Order”).

This is a review of a suspension order, imposed as a result of two separate cases against Mrs Watts.

Case One:

On 12 August 2016 a panel of the Conduct and Competence Committee made Mrs Watts the subject of a conditions of practice order for two years. On 14 October 2016 there was an early review of this order and a panel of the Conduct and Competence Committee decided to continue the current order. On 9 August 2018 a panel of the Fitness to Practise Committee imposed a 12 month conditions of practice order. On 7 March 2019 a panel of the Fitness to Practise Committee allowed the conditions of practice order to lapse on expiry.

Case Two:

On 13 August 2018 a panel of the Fitness to Practise Committee made Mrs Watts the subject of a suspension order for six months. On 7 March 2019 a panel of the Fitness to Practise Committee imposed a suspension order for a period of six months (in respect of both cases).

The six month suspension order is in respect of both cases, and is due to expire at the end of 11 September 2019.

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:

Case One:

That you, a registered nurse employed by the Kent and Medway NHS and Social Care Partnership Trust in the capacity of a psychiatric nurse:

- 1. Failed to provide adequate care to Patient A following his arrival at Accident and Emergency (A&E) on 19 August 2013 in that you:*
 - 1.1. Did not conduct an assessment of Patient A following his referral from A&E to yourself.*
 - 1.2. Did not inform the A&E nurse that Patient A required an assessment.*
 - 1.3. Did not inform the A&E nurse that Patient A was a suicide risk.*
 - 1.4. Did not enter the referral on to the computer.*

- 2. As a result of charge 1 above you contributed to the death of Patient A; or in the alternative, caused Patient A to lose a significant chance of survival.*

Case Two:

That you, a registered nurse, between 19 April and 02 May 2016 and in respect of Patient A:

- 1. did not complete and/or record:*
 - a) a care plan*
 - b) a risk assessment*
 - c) a core assessment*

- 2. did not request a medical review from the Crisis Resolution and Home Treatment Team Consultant.*

The previous reviewing panel on 7 March 2019 determined the following with regard to impairment:

“The panel has had regard to the judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* in which she approved the following approach to the question of impairment:

“Do our findings of fact in respect of the [doctor’s] misconduct...show that his/her fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the [medical] profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the [medical] profession;*
- d. ...”*

The panel found that limbs a, b and c were engaged. The panel was mindful that the deficiencies in Mrs Watts’ practice were serious, involving two vulnerable patients in crisis and a failure by Mrs Watts to provide them with adequate care. The panel today believes that these deficiencies have the potential to cause significant harm to other patients in her care. It bore in mind that the events leading to the second referral occurred at a time when Mrs Watts was receiving training. It considered that the failings in decision making and judgement demonstrated by Mrs Watts were such as to bring the nursing profession into disrepute since they showed a lack of the skills required of a registered nurse practising in the field of mental health.

In its consideration of whether Mrs Watts has remediated the shortcomings in her practice the panel took into account that she has not worked as a registered nurse for over two years. The panel bore in mind that Mrs Watts was suspended by the Trust within a week of the conditions of practice order being imposed in 2016 in relation to the first incident which occurred in 2013. The panel considered that Mrs Watts has not provided any evidence of relevant training courses, reading or work that she has undertaken to keep her nursing skills and

knowledge up to date or to remedy the failings identified. Furthermore, the panel today did not have the benefit of a reflective piece as required by condition 3, which would address the seriousness of the incident and the impact that her actions have had on both patients, their families, her colleagues at the time of the incident, the NMC and the wider public. This reflective account is something that Mrs Watts could have done in spite of not being in work as a nurse. However the panel was, like the previous panels, of the view that Mrs Watts' failings are capable of being remediated.

The panel had regard to an email dated 6 August 2018 between Mrs Watts and her NMC case officer in which Mrs Watts demonstrated remorse regarding the first incident. She accepted that she should have followed the Trust's protocol and that she was ashamed that a patient under her care died, potentially as a result of her decisions. At today's review hearing the panel considered that the second incident which led to another referral to the NMC occurred because Mrs Watts did not address the failings in her practice. The panel considered that in the absence of any new information before it and particularly of any reflective piece, Mrs Watts' level of insight has not developed sufficiently during the period when she has been subject to the last conditions of practice order. Accordingly the panel concluded that in the absence of any material change of circumstances and any further evidence of remediation there still remains a risk of repetition of her misconduct. The panel therefore concluded that Mrs Watts' fitness to practise remains impaired on public protection grounds.

The panel also 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 was mindful that the previous panels had made findings that Mrs Watts' conduct fell seriously short of the standards expected of a registered nurse, and that Mrs Watts has made no attempts, as far as the panel is aware, to address these concerns. In the panel's judgement, if it were not to

make a finding of impairment in these circumstances, public confidence in the nursing profession and the regulatory process would be undermined. The panel therefore also finds that Mrs Watts' fitness to practise remains impaired on public interest grounds."

The previous reviewing panel on 7 March 2019 went on to determine the following with regard to sanction:

"The panel then went on to consider whether a suspension order remains the appropriate sanction. The panel had regard to the provisions of the SG relating to suspension orders and noted that this sanction may be appropriate where the misconduct is not fundamentally incompatible with continuing to be a registered nurse or midwife in that the public interest can be satisfied by a less severe outcome than permanent removal from the register. As observed above the panel considered that Mrs Watts' failings in both cases are broadly similar. The panel bore in mind that Mrs Watts has not fully engaged since the first hearing took place in August 2016. However, the panel noted the difficulties with regards to the incorrect address on the system and considered that this may have impacted on her ability to engage with the proceedings in case two. The panel considered a greater degree of insight and remediation is required by Mrs Watts before she re-engages in nursing practice. The panel however considered that there is evidence that insight and remorse are featuring in Mrs Watts' communication with the NMC; for example Mrs Watts notified the NMC about the second referral. The panel also considered that this is an indication that Mrs Watts had complied with some of the conditions on her practice. It therefore considered that a suspension order may be appropriate and proportionate, as it would protect patients for the time it was in force and send a message about the standards expected of a registered nurse. The panel also noted that there was no evidence before it of a deep seated attitudinal problem in this case. The panel considered that a suspension order was necessary to protect the public and to meet the wider public interest.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction. The panel noted the hardship such an order will inevitably cause Mrs Watts; however it considered that this is outweighed by the public interest. The panel noted also that Mrs Watts' desire to practise in the future was unclear and considered that a further period of suspension would enable her to consider her intentions further and to provide the panel with evidence of remediation and reflection if appropriate. Accordingly, the panel determined to impose a suspension order for the period of six months. It considered this to be the most appropriate and proportionate sanction available.

The panel carefully considered whether a striking-off order would be proportionate in Mrs Watts' case. In light of its view that this is not a case where Mrs Watts' conduct was fundamentally incompatible with remaining on the register, and the judgement of both this and previous panels that her failings are remediable, the panel determined that a striking off order would be excessive in the present circumstances. The panel also noted that the NMC did not ask for a striking off order. The panel therefore determined that a striking off order was disproportionate at this time.

The panel considered that a future reviewing panel may be assisted by:

- Mrs Watts' attendance at any review hearing or any evidence of other engagement with the NMC;
- A reflective piece exploring the impact of her misconduct on her patients, the patients' families, her colleagues, and the reputation of the nursing profession as well as what she has learned from this incident and how she would behave differently in the future;
- Evidence of any steps Mrs Watts has taken to address the identified failings in her practice;
- Evidence of how Mrs Watts has kept her nursing skills and knowledge up to date;
- Testimonials or references from any current employer, attesting to her nursing practice (particularly assessment of patients and record-keeping)."

Decision on current fitness to practise

This panel has considered carefully whether Mrs Watts' 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. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel had regard to all of the documentation before it, including an email from Mrs Watts dated 30 June 2019.

The panel accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Watts' fitness to practise remains impaired.

The panel considered that there had been no material change of circumstances since the previous review hearing. Mrs Watts' engagement with the NMC's proceedings had been limited. It noted an email from Mrs Watts dated 30 June 2019, in which she stated:

"I no longer open mail from the NMC

I have no interest in the outcome

...

I have taken my pension and am (sic) now officially retired

To save time and money I would be happy to have my name removed from the register"

Mrs Watts had not addressed the recommendations made by the previous reviewing panel, nor had she demonstrated any evidence of insight and remediation into her failings. In these circumstances, the panel considered that there remains a risk of repetition. The panel therefore determined that a finding of impairment remains 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 had regard to the seriousness of Mrs Watts' failings, noting that in relation to the first case, her actions were found to have contributed to the death of a patient, or caused that patient to lose a significant chance of survival. In the absence of Mrs Watts having fully addressed such serious failings, and having not demonstrated full insight and remorse into them, the panel determined that a finding of impairment also remains necessary on public interest grounds. This would maintain confidence in the nursing profession and in the NMC as a regulator.

For these reasons, the panel finds that Mrs Watts' fitness to practise remains impaired.

Determination on sanction

Having found Mrs Watts' 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 29 of the Order. The panel also took into account the NMC's Sanctions Guidance ("SG") and bore 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 and to allow the current suspension order to lapse on expiry. The panel had regard to the NMC's guidance on allowing orders to expire when a nurse or midwife's registration will lapse. This guidance states that allowing a substantive order to expire is likely to be appropriate where the nurse or midwife's registration is only active because of the substantive order being in place, they do not wish to continue practising and the public are protected as the panel have made a clear finding of impairment, which can be drawn to the attention of any future decision maker if an application for readmission to the register is submitted.

The panel noted that Mrs Watts' registration fee expired in October 2017. Therefore, her registration was only being held effective due to the existence of the current suspension order. If the current order were to lapse on expiry, Mrs Watts' registration would lapse and she would be removed from the register, thereby preventing her from practising. If Mrs Watts were to apply for readmission to the register, this panel's finding that her fitness to practise remains impaired could be drawn to the attention of the Registrar, in making an assessment of her health and character, and whether she would be capable of safe and effective practice. The panel considered that these factors would ensure an element of public protection.

The panel noted that the guidance states that the nurse or midwife would have to express an intention of no longer wishing to practise, as well as giving a clear explanation of their plans for the future away from nursing and midwifery. The panel had regard to Mrs Watts' email dated 30 June 2019. Mrs Watts had stated that she had no interest in the outcome of this meeting, that she had retired and taken her pension and that she was happy to have her name removed from the register. However, Mrs Watts had not provided evidence of retirement nor had she provided a clear statement of

intention not to practise as a nurse in the future. The panel was not satisfied that Mrs Watts had provided a clearly expressed intention of not returning to the nursing profession. The panel considered that whilst allowing the current order to lapse may protect the public, in the absence of such a clearly expressed intention, this would not satisfy the public interest. In this regard, the panel also had regard to the seriousness of Mrs Watts' failings in both of her cases. The panel concluded that taking no action and allowing the current suspension order to lapse on expiry would not maintain confidence in the nursing profession and in the NMC as a regulator.

The panel next considered whether to impose a caution order. It concluded that this would be inappropriate due to the risk of repetition identified and the seriousness of the case. Imposing a caution order would not restrict Mrs Watts' practice. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.

The panel then considered whether to impose a conditions of practice order. The panel had regard to Mrs Watts' limited engagement with these proceedings, and the fact that she had indicated that she had no interest in their outcome. The panel therefore considered that there was no evidence to suggest that Mrs Watts would be willing or able to comply with conditions of practice. Mrs Watts had not demonstrated any evidence of insight and remediation since the previous hearing. The panel concluded that it would not be possible to formulate practicable and workable conditions which would suitably protect the public and satisfy the public interest.

The panel next considered whether to impose a further period of suspension. The panel considered that whilst this may protect the public, it would not serve any useful purpose in circumstances where Mrs Watts had indicated that she had no interest in the outcome of these proceedings. The panel considered that it was not in the public interest to continue a suspension order in circumstances where there was no evidence that it would serve to facilitate Mrs Watts' return to safe and effective practice. Having regard to the seriousness of the original failings in both of Mrs Watts' cases, which had not been sufficiently addressed by Mrs Watts, the panel determined that it was now necessary to take action to prevent Mrs Watts from practising in the future and

concluded that the only sanction that would adequately serve the public interest was a striking-off order.

This decision will be confirmed to Mrs Watts in writing.

That concludes this determination.