

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

Substantive Order Review Hearing

8 November 2019

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

Name of Registrant Nurse: Debra Jane Temple-Bell

NMC PIN: 85G0005E

Part(s) of the register: Registered Nurse Mental Health Nursing
November 1988

Area of Registered Address: England

Panel Members: Paul Morris (Chair, lay member)
Kim Bezzant (Registrant member)
Avril O'Meara (Lay member)

Legal Assessor: Richard Tyson

Panel Secretary: Rob James

Registrant: Not in attendance nor represented

Nursing and Midwifery Council: Represented by Amy Woolfson, Case
Presenter

Order being reviewed: Conditions of Practice Order (12 months)

Fitness to Practise: Impaired

Outcome: Striking off Order to come into effect at the end
of 14 November 2019 in accordance with
Article 30 (1)

Service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Temple-Bell was not in attendance, nor was she represented in her absence.

The panel was informed that the notice of this hearing was sent to Mrs Temple-Bell on 8 October 2019 by recorded delivery and first class post to her registered address.

The panel accepted the advice of the legal assessor.

In the light of the information available the panel was satisfied that notice had been served in accordance with Rules 11 and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) (the Rules).

Proceeding in absence

The panel then considered proceeding in the absence of Mrs Temple-Bell. The panel was mindful that the discretion to proceed in absence is one which must be exercised with the utmost care and caution.

The panel considered all of the information before it, together with the submissions made by Ms Woolfson, on behalf of the Nursing and Midwifery Council (NMC). The panel accepted the advice of the legal assessor.

Ms Woolfson directed the panel to various documentation that evidenced the NMC's correspondence with Mrs Temple-Bell. She submitted that the matter has now been ongoing for more than six years and that it is for the best if the hearing proceeds.

The panel also noted the contents of an email dated 3 November 2019 from Mrs Temple-Bell to the NMC Case Coordinator in which she stated:

"In respect of the 8th November I will not be able to attend, I am working until 2.30pm , but would be more than happy to talk to the panel on the phone after this time.

In answer to your question of my intention to return to nursing , I feel that after 9years since the incidents took place and the 7years of the NMC punishment have left me with no doubt that I would ever be accepted back into the profession i adored, the consistant (sic) inference that I have not taken responsibility for my actions has finally broken me.

I will not be returning to nursing and will continue to work at Marks and Spencer where i have been for the last 3years.”

The panel also took account of the fact that the NMC Case Coordinator had contacted Mrs Temple-Bell today asking if she had anything further to add.

The panel noted that Mrs Temple-Bell had offered to attend over the telephone if the panel wished to speak to her.

Mrs Temple-Bell had been sent notice of today’s hearing and the panel was satisfied that she was aware the hearing is taking place. The panel, therefore, concluded that she had chosen voluntarily to absent herself. The panel had no reason to believe that an adjournment would result in Mrs Temple-Bell’s future attendance. Having weighed the interests of Mrs Temple-Bell with those of the NMC and the public interest in an expeditious disposal of this hearing the panel determined to proceed in Mrs Temple-Bell’s absence.

Decision and reasons on review of the current order:

The panel decided to make a striking off order. This order will come into effect at the end of 14 November 2019 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fourth review of a conditions of practice order, originally imposed by a panel of the Conduct and Competence Committee on 17 July 2013. The order was last reviewed on 4 October 2018 when a panel of the Fitness to Practise Committee extended the conditions of practice order for a period of 12 months. The current order is due to expire at the end of 14 November 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:

'That you, while employed as Modern Matron by 2gether NHS Foundation Trust, Gloucestershire:

1. ...
2. *Between November 2008 and November 2010 did not maintain adequate accounts and / or operated unauthorised financial management systems in that you:*
 - (a) *Did not adequately record and account for monies obtained from the payphone;*
 - (b) *Allowed monies from the payphone to be used to supplement petty cash;*
 - (c) *On 2 November 2009 used Trust money taken from the payphone to pay for a staff party;*
 - (d) *On 29 January 2010 made a false accounting entry in that you created an entry of £180 in the expenditure log for the Unit;*

3. *Between 5 November 2010 and 6 April 2011, whilst you were suspended, did not return £100 of petty cash to the Trust.*
4. *Your conduct as set out at charge 2(d) above was dishonest.*
5. *Between February 2010 and November 2010;*
 - (a) *Did not carry out appraisals with Hotel Service Assistant A;*
 - (b) *Did not adequately supervise Hotel Service Assistant A;*
 - (c) *Said to Hotel Service Assistant A that she was 'just a cleaner' or words to that effect;*
 - (d) *Followed Hotel Service Assistant A into the disposal room, shut the door and said 'you are not going to win' or words to that effect;*
 - (e) *On 15 October 2010, banged your hands on a desk and said 'I have had enough of you and your fucking wages' or words to that effect.*
6. *On 4 November 2010, shouted at Support Worker B, 'you are so rude, like a brick wall', or words to that effect;*
7. *On 5 November 2010, during a conversation with Staff Nurse C:*
 - (a) *Said aggressively, 'what are you looking at me like that for?';*
 - (b) *Said that you were going to sack Staff Nurse C, or words to that effect.*

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

The third reviewing panel in October 2018 determined the following with regard to impairment:

"The panel considered whether Mrs Temple-Bell's fitness to practise remains impaired. The panel had no new evidence before it of any compliance with the conditions of practice order and it does not have any evidence of further remediation. In light of these failings and the seriousness of the original charges,

which include dishonesty, the panel determined that there remains a risk of repetition of the misconduct found proved.

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 although Mrs Temple-Bell had demonstrated progress at the last review hearing, there had been no continued engagement or evidence of remediation by Mrs Temple-Bell since November 2016. It therefore found that, without any further evidence about her employment status, there was current impairment on the grounds of both public protection and public interest. The panel determined that there remained a real possibility that Mrs Temple-Bell would be liable to act so as to put patients at risk of unwarranted harm, would be liable in the future to bring the profession into disrepute, and would be liable in the future to act dishonestly.

For these reasons, the panel finds that Mrs Temple-Bell's fitness to practise remains impaired.”

The third reviewing panel in October 2018 determined the following with regard to sanction:

*“The panel next considered the imposition of a further conditions of practice order. The panel was of the view that a conditions of practice order remained sufficient to protect patients and the wider public interest. The panel bore in mind the passage of time that had passed since the original hearing which took place in July 2013 and that Mrs Temple-Bell had worked in a senior nursing role, although she had not practiced now for 8 years. It was of the view that a time limit must be put in place on the conditions of practice order. This would assist a future reviewing panel to have a clear indication about Mrs Temple-Bell's career intentions. The panel had sight of the case *Annon v NMC* [2017] EWHC 1879 (Admin) in which the judge commented on the undesirability of a person being left in ‘professional limbo’ for an indefinite period of time. It determined that a*

further period of 12 months would give Mrs Temple-Bell a final opportunity to provide the NMC with any new information demonstrating her remediation and it affords her adequate time to complete a Return to Practice course (RTP) if she wishes to practice as a nurse in the future. The panel noted that, at the last review hearing, Mrs Temple-Bell said that she intended to enrol on a RTP course in July 2017.

Therefore the panel remains of the opinion that the conditions of practice order remains necessary for the protection of the public and is otherwise in the public interest.

The panel decided that it would be punitive to impose a suspension order as it would prevent Mrs Temple-Bell from demonstrating any compliance with the conditions of practice order.

The panel decided to amend Condition 3 in order to impose a time limit. It determined that the public would be suitably protected as would the reputation of the profession by amending condition 3 and continuing the current conditions of practice order. The panel determined that extending the conditions of practice order for a period of 12 months would allow Mrs Temple-Bell reasonable time to re-engage with the NMC and complete a RTP course.

It therefore decided to impose the following conditions:

The panel decided that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions of practice:

- 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. *You must successfully complete and pass an NMC-approved return to practice programme by 30 September 2019.*
- 4(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*
- 4(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.*
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 area of your practice:
Interpersonal skills with working collaboratively with work colleagues.*
6. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month 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 every three months and 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 not as a registered nurse, work in a management role.*
12. *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 (11) above, to them:*
 - (a) *Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work*
 - (b) *Any agency you are registered with or apply to be registered with (at the time of application)*
 - (c) *Any prospective employer (at the time of application)*

(d) *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).*

The next reviewing panel may be assisted by:

- *Mrs Temple-Bell's presence at the next review hearing;*
- *her compliance with the current conditions of practice order;*
- *a clear indication of whether her intention is to stay in nursing or seek another career path;*
- *references pertaining to your character and integrity from paid or voluntary work; and*
- *a reflective piece on the importance of honesty and integrity in the nursing profession."*

Decision on current fitness to practise

The panel has considered carefully whether Mrs Temple-Bell's 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 decisions of the last panels. However, it has exercised its own judgment as to current impairment.

The panel has had regard to all of the documentation before it. It has taken account of the submissions made by Ms Woolfson, on behalf of the NMC.

Ms Woolfson outlined the background of the case alongside the findings of previous reviewing panel. Ms Woolfson submitted that following the lack of any meaningful engagement by Mrs Temple-Bell since she had attended a review hearing in 2016, the time had now come to make a striking off order. Ms Woolfson submitted that recent correspondence from Mrs Temple-Bell did not add a great deal and that it had been eight to nine years since she had practised as a Registered Nurse.

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 Mrs Temple-Bell's fitness to practise remains impaired.

The panel took account of the correspondence from Mrs Temple-Bell and the fact that she had been provided with the opportunity by the previous panel to remediate her misconduct. It noted that, within the conditions, she had been afforded the opportunity to complete a Return to Practice course by 30 September 2019 but had not done so. Indeed, there was no evidence before the panel as to whether Mrs Temple-Bell had taken steps to enrol on a course. The panel noted that this was a technical breach of the conditions but it was not one that had been brought to its attention by the NMC. Further, it recognised that Mrs Temple-Bell has continued to care for her mother while working in retail.

The panel noted that there was no evidence before it that Mrs Temple-Bell had attempted any kind of remediation since the review in November 2016 and had significantly failed to demonstrate meaningful insight into her failings since being put under the imposition of an order. The panel was of the view that the previous panel had attempted to assist Mrs Temple-Bell by making a conditions of practice order but she had not taken any initiative to engage with the conditions of practice order. It considers a lack of meaningful engagement over a period of time to be an aggravating feature.

The panel took into account correspondence from Mrs Temple-Bell in which she said she has been working in retail for three years. She did not provide references from colleagues that could have attested to her character. Further, Mrs Temple-Bell did not provide a reflective piece which outlined her intentions and her understanding of what she had done wrong when practising as a Registered Nurse.

The last panel determined that Mrs Temple-Bell remained liable to repeat matters of the kind found proved. This panel has heard no information that would allow it to make a different finding. In light of this the panel determined that Mrs Temple Bell remains 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 had 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 Mrs Temple-Bell's fitness to practise remains impaired.

Determination on sanction

Having found Mrs Temple-Bell's 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 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 be inappropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution order but concluded that this would be inappropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered the imposition of a conditions of practice order. Mrs Temple-Bell has not practised as a nurse for over eight years and has not engaged with the conditions of practice order as imposed by previous panels. Mrs Temple-Bell has shown

no indication that she wishes to return to practice. Indeed, the opposite. On this basis the panel concluded that a conditions of practice order is not practicable or appropriate.

The panel next considered imposing a suspension order. The panel noted that Mrs Temple-Bell does not intend to return to nursing and, as noted at the panel's finding on impairment, evidence of full and lasting insight into her failings. Further, Mrs Temple-Bell's engagement with the NMC has been minimal. In these circumstances the panel determined that a period of suspension would not serve any useful purpose.

Mrs Temple-Bell has had six years to fully engage with the orders imposed by successive panels. She has failed to do so and now has confirmed her intention never to work as a Registered Nurse again.

The panel determined that it was necessary to take action to prevent Mrs Temple-Bell from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. Further, the panel determined that it was time to end the period of Mrs Temple-Bell's "period of limbo" in nursing. The panel therefore directs the registrar to strike Mrs Temple-Bell's name off the register.

In accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 this striking off order will come into effect upon the expiry of the existing conditions of practice order, namely at the end of 14 November 2019.

This decision will be confirmed to Mrs Temple-Bell in writing.

That concludes this determination.