

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Order Review Meeting  
31 October 2019**

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

<b>Name of registrant:</b>	Mr Mark Robert Dixon
<b>NMC PIN:</b>	07I0195E
<b>Part(s) of the register:</b>	Registered Nurse- Sub Part 1 Adult Nursing- September 2007
<b>Area of Registered Address:</b>	England
<b>Type of Case:</b>	Misconduct
<b>Panel Members:</b>	Yvonne Brown (Chair, Lay member) Evette Roberts (Registrant member) Avril O'Meara (Lay member)
<b>Legal Assessor:</b>	Justin Gau
<b>Panel Secretary:</b>	Charlie Russell
<b>Order being reviewed:</b>	Conditions of Practice Order (12 months)
<b>Outcome:</b>	Striking-Off

## **Service of Notice of Meeting**

The panel was informed that the notice of this meeting was sent to Mr Dixon on 13 September 2019 by recorded delivery and first class post to his registered address. The panel noted that notice was also sent to Mr Dixon's representatives at the Royal College of Nursing (RCN) on the same date.

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(A) and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended) (the Rules).

## **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 14 December 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 12 November 2015. On 26 May 2016 the conditions of practice order was amended. On 3 November 2017 and 5 December 2018, further conditions of practice orders were imposed. The current order is due to expire on 14 December 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, whilst employed by University Hospital South Manchester NHS Trust as a Registered Nurse on the Burns Unit at the University Hospital of South Manchester failed to demonstrate the standards of knowledge, skill and/or judgment required to practise without supervision as a Band 5 Registered Nurse in that you:*

1. *On 29 June 2011 on two occasions incorrectly administered 20mg Oramorph to a patient instead of their prescribed dose of 10mg Oramorph;*
2. *On 9 September 2011 failed to sign Patient A's kardex to record that you acted as the second checker for the administration of Morphine Sulphate tablets to Patient A;*
3. *On 6 February 2012:*
  - 3.1. *Failed to record the administration of 60mg Zomorph at 20:00 to Patient B in the controlled drug book;*
  - 3.2. *Incorrectly recorded that you had taken 60mg Zomorph from the controlled drug cupboard to administer to Patient C;*
  - 3.3. *[...]*
4. *On 24 November 2012 failed to sign an unknown patient's MAR chart to record that you had administered medication;*
5. *On 21 December 2012 at approximately 11:00 failed to administer or record the administration of Flucloxacillin to Patient D;*
6. *On 29 December 2012 failed to correctly record that you had administered Gliclacid to Patient E on the patient's kardex;*
7. *On 15 August 2013:*
  - 7.1. *Incorrectly recommenced Patient F's Potassium infusion at the rate of 200mls/hr instead of the patient's prescribed rate of 83mls/hr;*
  - 7.2. *Failed to record on Patient F's fluid balance chart that the patient had received 100mls IV antibiotic;*

*AND in light of the above, your fitness to practise is impaired by reason of your misconduct and/or lack of competence.*

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

*“The panel has had regard to all of the documentation before it. It has taken account of the submissions made by Ms Guest on behalf of the NMC and the written representations made by Mr Dixon’s RCN representative, on his behalf.*

*In written submissions the RCN, on Mr Dixon’s behalf, invited the panel to extend the current conditions of practice order for a further 12 months. The RCN submitted that Mr Dixon, although aware of the requirements of the conditions of practice order, has been unable to comply as he has not been working as a registered nurse in the previous 3 years. The RCN informed the panel that Mr Dixon has been taking steps to build his confidence, and is currently working as a Physiotherapy Assistant which involves patient care.*

*The RCN submitted that Mr Dixon is ‘keen to find the right job rather than jump back into nursing at any cost’ and plans to undertake a return to nursing course before securing a nursing position.*

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

*The panel considered whether Mr Dixon’s fitness to practise remains impaired.*

*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 noted that Mr Dixon has not worked as a registered nurse since the substantive order was imposed, nor for the 2 years prior. Therefore, he has not had the opportunity to comply with the conditions of practice order. The panel was aware that Mr Dixon has been working in a healthcare role for a significant*

*period of time, but there is no detailed information before it relating to this role and his performance in it, other than his training record. Therefore there was no information before it to demonstrate how Mr Dixon has addressed the specific concerns raised at the substantive hearing. This panel noted that the previous reviewing panel stated:*

*'The future panel may be assisted by an up to date personal development plan, references and testimonials with regard to Mr Dixon's current practice, a reflective statement following completion and his attendance at the next hearing.'*

*It is unfortunate that this panel had very limited information before it.*

*The panel had borne in mind that its primary function was 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 protection and public interest grounds is required.*

*For these reasons, the panel finds that Mr Dixon's fitness to practise remains impaired."*

The third reviewing 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 risk to the public 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 but concluded that this would be inappropriate as it would not sufficiently protect the public. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.*

*The panel next considered the continuation of a conditions of practice order. The panel also considered Mr Dixon's intention to use the following 12 months to undertake a return to practice course and secure a nursing position, and was of the view that extending the current conditions of practice order for a further period of 12 months was the appropriate and proportionate response at this time. However, given the passage of time since the incidents, the panel was mindful that a future reviewing panel may not grant a further extension of the order unless meaningful progress is made by Mr Dixon towards his expressed intention to return to nursing.*

*Accordingly, the panel determined, pursuant to Article 30(1) (c) of the Nursing and Midwifery Order 2001, to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:*

- 1. Upon obtaining any nursing employment you must engage with Access to Work. You must provide the NMC with evidence of this and evidence of any assessment you have been offered, at least 14 days before any NMC review hearing or meeting.*
- 2. You must not administer medication unless directly supervised by another qualified registered nurse, or until you have been assessed, within the workplace, as competent to administer medication.*
- 3. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer.*

*"Indirect supervision" is defined as "working at all times on the same shift as, but not necessarily under the direct observation of, a senior registered nurse/band 6 or above who is physically present in or on the same ward, unit, or floor that you are working in or on".*

4. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:*
  - i. *Medication administration*
  - ii. *Documentation*
  - iii. *Communication*
  
5. *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.*
  
6. *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.*
  
7. *You must maintain regular contact with your General Practitioner (GP), and Occupational Health department where appropriate, to discuss the impact of your dyslexia and stress on your nursing practice. You must provide a report from your GP (where appropriate) and/or from the Occupational Health department, to the NMC at least 14 days before any NMC review hearing or meeting.*
  
8. *You must notify the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*

9. *You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*

10. a) *You must within 7 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 7 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.*

11. *You must immediately inform the following parties 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:*

1. *Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work*

2. *Any agency you are registered with or apply to be registered with (at the time of application)*

3. *Any prospective employer (at the time of application)*

4. *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)*

*A future panel may be assisted by:*

- *More comprehensive details of work, clinical and non-clinical;*
- *Mr Dixon's attendance at a future hearing;*
- *References and testimonials.*

*This decision will be confirmed to Mr Dixon in writing.*

*That concludes this determination.”*

### **Decision on current fitness to practise**

This panel has considered carefully whether Mr Dixon'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 decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel has had regard to all of the documentation before it, including the substantive order review bundle and on-table document, which includes communications between the NMC and Mr Dixon's representatives at the RCN.

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 Mr Dixon's fitness to practise remains impaired.

The panel considered all the information before it and was of the view that there has been no material change in circumstances since the imposition of the current order. It had regard to the previous panel's findings on impairment, specifically that there was "very limited information before it". This panel has seen no new information to

demonstrate that Mr Dixon has complied with the current conditions of practice, nor has he made any attempts to demonstrate that he is seeking to address the concerns identified. Mr Dixon has had no engagement with the NMC since the last review hearing. As a result, this panel had no new information to demonstrate that he has developed any further insight or remediation into his misconduct, and the panel was not satisfied that the misconduct would not be repeated.

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 both grounds of public protection and public interest is required.

For these reasons, the panel finds that Mr Dixon's fitness to practise is currently impaired.

### **Determination on sanction**

Having found Mr Dixon'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 to the public 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 but concluded that this would be inappropriate as it would not sufficiently protect the public. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered the continuation of a conditions of practice order. It was of the view that the current conditions of practice order is no longer an appropriate response in this case. The panel has seen no information to demonstrate that Mr Dixon has complied with the current conditions of practice order. Given that there is no information before the panel to suggest that Mr Dixon is currently practising as a nurse, it was of the view that conditions of practice are no longer workable.

The panel considered whether to substitute the conditions of practice order with a suspension order.

The panel determined that a period of suspension would serve no useful purpose in bringing about Mr Dixon's engagement with these proceedings and remediation of his misconduct. It noted the public interest in ensuring that registrants do not remain subject to fitness to practise proceedings in circumstances where to do so would not facilitate their return to safe and effective practice. The panel considered that Mr Dixon has been subject to a conditions of practice order since 2015, during which time he has not practised as a nurse and provided very limited evidence that he has addressed the regulatory concerns raised. This lack of engagement, including in particular his recent failure to engage with the NMC, represents a serious departure from the professional standards expected of a registered nurse.

In these circumstances, the panel determined that it was necessary to take action to remove Mr Dixon from the NMC Register. The panel concluded that the only sanction that would adequately protect the public and serve the public interest, which included maintaining confidence in the nursing profession and the NMC as regulator, and the upholding of proper standards of conduct and performance, was a striking-off order.

This decision will be confirmed to Mr Dixon in writing.

That concludes this determination.