

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

**Substantive Order Review Hearing
28 August 2020**

Virtual Hearing

Name of registrant:	Susan Ruth Bradbury
NMC PIN:	75J2855E
Part(s) of the register:	Registered Nurse – Sub Part 1 RN3: Mental Health Nursing – 1979
Area of registered address:	Staffordshire
Type of case:	Misconduct
Panel members:	Philip Sayce (Chair, Registrant member) Marian Robertson (Registrant member) Chris Thornton (Lay member)
Legal Assessor:	William Hoskins
Panel Secretary:	Edmund Wylde
Nursing and Midwifery Council:	Represented by Neil Jeffs, Case Presenter
Susan Ruth Bradbury:	Not present and not represented
Order being reviewed:	Suspension order (12 months)
Fitness to Practise:	Impaired
Outcome:	Striking-Off order to come into effect at the end of 4 October 2020, in accordance with Article 30(1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Bradbury was not in attendance and that the Notice of Hearing had been sent to her registered email address on 20 July 2020.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and venue of the hearing and, amongst other things, information about Ms Bradbury's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Jeffs, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Bradbury has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Ms Bradbury

The panel next considered whether it should proceed in the absence of Ms Bradbury. The panel had regard to Rule 21 and heard the submissions of Mr Jeffs who invited the panel to continue in the absence of Ms Bradbury.

Mr Jeffs submitted that there had been no engagement at all by Ms Bradbury with the NMC in relation to these proceedings, despite repeated attempts to contact her, and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Ms Bradbury. In reaching this decision, the panel has considered the submissions of Mr Jeffs, and the advice of the legal assessor. Ms Bradbury has not engaged with the NMC in respect of these proceedings and has provided no written submissions for the panel's consideration. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Ms Bradbury has not engaged with the NMC, despite repeated attempts to contact her, and has not responded to any of the correspondence sent to her about this hearing;
- No application for an adjournment has been made by Ms Bradbury;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Ms Bradbury.

Decision and reasons on review of the substantive order

The panel decided to impose a striking-off order. This order will come into effect at the end of 4 October 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a suspension order originally imposed by a panel of the Fitness to Practise Committee at a substantive hearing on 4 September 2018. The order was reviewed on 1 March 2019 and extended for a period of six months. On 30 September 2019, the suspension order was extended for a period of 12 months.

The current order is due to expire at the end of 4 October 2020.

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, a registered nurse:

1) *Whilst employed at Darwin Court Care Home:*

a) *On 29 February 2016:*

i) *Left the medication trolley unattended and / or unlocked and / or with the keys in the door in an unlocked room;*

Proved in part

ii) *Left one or more medications in pots on the medication trolley whilst the trolley was unattended in an unlocked room;*

Proved

b) *On 7 March 2016:*

i) *Left medication in a pot in an unlocked room;*

Proved

ii) *Instructed Colleague A to administer medication to Patient D when he was not competent to do so;*

Proved

iii) *...*

c) *...*

2) *Whilst employed at Park Farm Lodge Care Home:*

a) *On or around 13 or 14 August 2016:*

i) *...*

ii) *Did not assess Patient A on one or more occasion after colleagues had raised concerns with you about her condition;*

Proved

iii) *Did not take Patient A's blood pressure;*

Proved

iv) *Did not take Patient A's pulse;*

Proved

v) *Did not take Patient A's temperature;*

Proved

vi) *Did not take Patient A's oxygen saturation levels;*

Proved

b) *On 14 August 2016:*

i) *Did not assess Patient A when requested to attend by*

Colleague B;

Proved

ii) *Did not escalate Patient A's condition to a doctor and / or the emergency services;*

Proved in part

iii) *Did not attend Patient A in a timely manner when requested to by Colleague B;*

Proved

iv) *...*

v) *Did not include sufficient detail of the care you provided to Patient A in her care notes;*

Proved

vi) *...*

c) *On 31 August 2016, having taken a blood sugar reading from Patient B of 3.8mmol per litre:*

i) *Administered insulin;*

Proved

ii) *Did not call a doctor to review whether to administer insulin;*

Proved

iii) *Did not delay insulin until after the patient had eaten and you had taken a further blood sugar reading;*

Proved

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

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

The panel considered whether Ms Bradbury's fitness to practise remains currently impaired. Ms Bradbury has engaged to a limited extent with the NMC in relation to her attendance at this hearing. However, this panel had no new information from Ms Bradbury since her previous review hearing to demonstrate that the concerns of the previous reviewing panel have been addressed. Ms Bradbury has not provided any information as to what she has been doing since the previous review hearing or any reflective piece demonstrating her insight into her misconduct. In light of this lack of information and Ms Bradbury's limited engagement, the panel determined that there remains a risk of harm to the public if Ms Bradbury was permitted to practise as a nurse without restriction, and concluded that her fitness to practise remains impaired on the grounds of public protection.

The panel also had regard to the wider public interest, which includes declaring and upholding proper professional standards and maintaining public confidence in the regulatory process. The panel considered that public confidence in the profession and the regulatory process would be undermined if there were no finding of impairment. The panel therefore concluded that a finding of current impairment also remained necessary on wider public interest grounds.

The second reviewing panel determined the following with regard to sanction:

The panel first considered whether to take no action but concluded that, in light of the ongoing public protection concerns and lack of information from Ms Bradbury, this would be inappropriate and insufficient in the light of the risk identified in this case.

The panel then considered whether to impose a caution order but concluded that, for the same reasons, this too would be inappropriate and insufficient.

The panel next considered the imposition of a conditions of practice order. As Ms Bradbury has not engaged in any meaningful way with the NMC process since her previous review hearing, and the panel has no knowledge of her current circumstances, the panel could not be satisfied that she would be willing to engage

with a conditions of practice order. As a result, the panel considered that a conditions of practice order is not workable in this case.

The panel carefully considered a suspension order. It concluded that a suspension order for a period of 12 months would be the appropriate, proportionate, and sufficient sanction. The panel noted Ms Bradbury's lack of engagement with NMC proceedings. However, in light of the limited engagement from Ms Bradbury in advance of this hearing in relation to her attendance today, this panel decided that it would be proportionate to impose a suspension order on this occasion, as it would afford Ms Bradbury an opportunity to provide up to date evidence of what she is currently doing and to reflect on whether she intends to cease from practise as a nurse. The panel considered that suspension for a period of 12 months would be appropriate to protect the public and satisfy the wider public interest and allow time for Ms Bradbury to engage with these proceedings, and/or to explore how she may cease to practise and retire from nursing in her current circumstances (if that is her wish).

The panel gave serious consideration to a striking off order, particularly in the light of Ms Bradbury's lack of engagement, but concluded that this would be a disproportionate sanction at this time, given that she has engaged to some extent. The panel was mindful of the principle of proportionality highlighted in the Sanctions Guidance and that the least restrictive sanction that provides satisfactory protection to the public and is fair, should be applied.

The panel considered that there must come a time when Ms Bradbury's lack of engagement with her professional regulator may itself tip the balance in favour of a striking off order. However, having regard to her misconduct, the panel was satisfied that a striking-off order would not be proportionate at this stage.

Therefore, the panel concluded that a further period of suspension is appropriate and proportionate at this time to give Ms Bradbury a further opportunity to re-engage. However, this panel sought to remind Ms Bradbury that a striking off order will be available to any future reviewing panel.

Any future reviewing panel may be assisted by the following:

- *Ms Bradbury's attendance, whether in person or by telephone.*
- *A reflective piece from Ms Bradbury demonstrating insight into the potential impact of her misconduct on patients, colleagues, and the wider nursing profession.*
- *Information about all work, paid or unpaid, that Ms Bradbury has undertaken since the date of this hearing.*
- *Information as to Ms Bradbury's intentions with regard to her future career in nursing.*

Decision and reasons on current impairment

The panel has considered carefully whether Ms Bradbury'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. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement 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 Mr Jeffs on behalf of the NMC.

Mr Jeffs informed the panel of the background to the case and invited its attention to the relevant documentation before it. He submitted that there has been no engagement by Ms Bradbury with the regulatory process, in the face of a stark warning by the previous reviewing panel and repeated attempts by the NMC to engage her. Mr Jeffs invited the panel to consider that there has been no material change of circumstances since the last review hearing, and submitted that a finding of impairment on both public protection and public interest grounds is therefore the only appropriate finding in the circumstances of the case. He submitted that there remains an extant finding of a risk of repetition, absent new information to the contrary.

In respect of matters of sanction, Mr Jeffs submitted that anything less than a suspension order would not appropriately protect the public or address the public interest. Mr Jeffs

submitted that the panel has, in essence, a binary choice between ongoing suspension and a striking-off order. However, he concluded his submissions by reminding the panel that matters of sanction are for the panel's own independent and professional judgement.

Ms Bradbury has not engaged with the NMC so as to provide written representations to the panel for consideration in her absence.

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 Ms Bradbury's fitness to practise remains impaired. It considered that, given Ms Bradbury's significant and sustained lack of engagement, there is no information before it to indicate a material change in the circumstance of the case or the level of risk, since the last review hearing. Ms Bradbury has provided no information to suggest a development in her insight or any attempts at remediation. The panel bore in mind that the charges found proved relate to serious and wide-ranging matters of misconduct.

In the circumstances of the case, and Ms Bradbury's disengagement from the regulatory process, there is no information before this panel to indicate that Ms Bradbury's fitness to practise is anything other than impaired, on both public protection and public interest grounds.

The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection and public interest.

Decision and reasons on sanction

Having found Ms Bradbury'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 30 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 considered whether to take no action (thereby allowing the order to lapse upon expiry) or impose a caution order but concluded such courses of action would be inappropriate in view of the nature and seriousness of the case, as well as its finding of impairment on public protection grounds. Ms Bradbury has not engaged with the regulatory process, and has not provided a clear explanation as to her future intentions – despite ample opportunity to make such a statement. In the light of the above, the panel considered that allowing the order to lapse or making an order which does not restrict Ms Bradbury's practice would not be appropriate in the circumstances of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action or impose a caution order.

The panel next considered whether a conditions of practice order on Ms Bradbury's registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. It bore in mind that the charges found proved relate to serious misconduct, and that Ms Bradbury has demonstrated no insight or attempts at remediation of her practice. Furthermore, given Ms Bradbury's profound lack of engagement with the regulatory process, the panel had no confidence that she would engage with any conditions of practice such as to protect the public and address the public interest in this case. As such, the panel determined that a conditions of practice order was unworkable and inappropriate to the circumstances of the case.

The panel next considered imposing a further suspension order. It noted that a suspension order would protect the public for its duration. However, the panel bore in mind Ms Bradbury's significant and protracted lack of engagement with the regulatory process, during which time she has demonstrated no attempts at developing her insight or remediating her practice. Ms Bradbury has been given ample opportunity to engage with the NMC in respect of these matters; the only real engagement prior to today's hearing has been to enquire about how to remove herself from the register, and Ms Bradbury has not engaged with the NMC in respect of today's hearing. In these circumstances, the panel

determined that a further period of suspension would not serve any useful purpose and would not adequately serve the public interest.

The panel therefore concluded that the only appropriate sanction in the circumstances of the case, that would adequately protect the public and serve the public interest, was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely at the end of 4 October 2020 in accordance with Article 30(1).

This decision will be confirmed to Ms Bradbury in writing.

That concludes this determination.