

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

**Substantive Order Review Meeting
16 January 2020**

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

Name of registrant: Wendy Scott

NMC PIN: 09A0343S

Part(s) of the register: Registered Nurse – Sub Part 1
Adult nursing – April 2014

Area of registered address: Scotland

Type of case: Misconduct

Panel members: Catrin Davies (Chair, lay member)
Deborah Tymms (Registrant member)
Geoff Baines (Lay member)

Legal Assessor: Paul Hester

Panel Secretary: Ruth Bass

Order being reviewed: Suspension order (6 months)

Outcome: Strike-off order to come into effect at the end of
14 March 2020 in accordance with Article 30(1)

Decision and reasons on service of Notice of Hearing

Notice of this hearing was sent to Ms Scott on 6 December 2019 by recorded delivery to her address on the Register. The panel heard and accepted the advice of the legal assessor. Whilst not a requirement of the Nursing and Midwifery Council (Fitness to Practise) Order 2004 (the Rules) for the Nursing and Midwifery Council (NMC) to prove receipt of the notice by Ms Scott, the panel noted that the Royal Mail track and trace documentation shows that it was signed for in the printed name of 'SCOTT' on 7 December 2019 at 12:00pm. The panel was satisfied that notice has been served in compliance and accordance with Rules 11 A and 34 of 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 March 2020 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive order originally imposed by a Fitness to Practise Committee on 16 August 2018. The original substantive order was a conditions of practise order for a period of 12 months. This was reviewed on 1 August 2019 and replaced with a suspension order for a period of 6 months.

The current order is due to expire at the end of 14 March 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:

On the night shift of 25-26 March 2016

1. In relation to Patient A:

- 1.1. *Upon receiving handover of Patient A's elevated NEWS score, did not escalate to the nurse in charge;*
- 1.2. *...*
- 1.3. *...*
- 1.4. *Did not record Patient A's fluid balance on an hourly basis;*
- 1.5. *...*
- 1.6. *Upon becoming aware that Patient A's haemoglobin was 69, did not contact the 'Hospital at Night ("HaN")' team and/or the medical team;*
- 1.7. *...*
- 1.8. *...*
- 1.9. *...*

2. *In relation to Patient B:*

- 2.1. *At 02:00 incorrectly calculated Patient B's NEWS score;*
- 2.2. *...*
- 2.3. *At 02:00 did not contact the 'HaN' team and/or the medical team*
- 2.4. *...*
- 2.5. *...*

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

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

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 Scott's fitness to practise remains impaired. The panel noted that the original substantive panel found Ms Scott's fitness to practise impaired on the grounds of public protection only, and imposed a conditions of practice order which was intended to help Ms Scott remediate her practice. However, over the past year Ms Scott has not engaged with the NMC. The panel therefore had no evidence of remediation and no information to

suggest that Ms Scott has complied with the conditions of practice order. In the absence of any evidence of remediation, the panel concluded that Ms Scott's fitness to practise remained impaired on the grounds of public protection.

The panel also determined that a finding of current impairment had also become necessary on public interest grounds, to uphold proper professional standards. All registered nurses and midwives have a duty to cooperate and engage with their regulator, but Ms Scott has failed to do so. The panel therefore considered that a finding of current impairment on public interest grounds would send a message to the profession about the standards of cooperation expected from them.

For these reasons, the panel determined that Ms Scott's fitness to practise remains impaired.

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

The panel next considered the continuation of the conditions of practice order. It noted that Ms Scott indicated prior to her substantive hearing that she no longer wished to practise as a nurse. Ms Scott's lack of engagement with the NMC over the past year would seem to support this assertion. Ms Scott has been subject to conditions of practice for almost 12 months but has provided no evidence to suggest that she has complied with these, or sought to remedy her practice in any way. The panel therefore had no reason to believe that Ms Scott would be willing to comply with any further conditions imposed upon her registration. Accordingly, it determined that conditions of practice were no longer practical, workable or appropriate.

The panel therefore moved on to consider a suspension order. It was of the view that this would protect the public and also meet the public interest. The panel considered a striking-off order but decided that this would be disproportionate at this time, as the public interest could be served by a lesser sanction. However, it wishes to make it clear to Ms Scott that if she continues not to engage with the NMC then a future reviewing panel may decide that her behaviour is

fundamentally incompatible with remaining on the register, and choose to strike her off.

Decision and reasons on current impairment

The panel today has considered carefully whether Ms Scott'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 judgement as to current impairment.

The panel has had regard to all of the documentation before it, namely the NMC bundle. There has been no new information sent to the NMC by Ms Scott since the last review.

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 Ms Scott's fitness to practise remains impaired. The panel noted that Ms Scott has not provided any new documentation to be considered at this review, and has not engaged in these regulatory proceedings since the substantive hearing.

Due to Ms Scott's lack of meaningful engagement with these proceedings, the panel also had no information as to whether she has taken any effective steps to remedy her misconduct or to keep her nursing skills up to date during her period of suspension. Ms Scott has failed to provide any evidence of insight into her misconduct and has not addressed any of the risks associated with it. As such, Ms Scott is liable to repeat matters of the kind found proved and remains a risk to patients, work colleagues, and the public. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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 public interest grounds is also required, due to Ms Scott's continued failure to engage with her regulator.

For these reasons, the panel finds that Ms Scott's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Scott'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 Articles 29 and 30 of the Order. The panel has also taken into account the NMC's Sanctions Guidance 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 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 whether a conditions of practice on Ms Scott's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel was of the view that Ms Scott's failure to comply with the conditions of practise originally imposed at the substantive hearing, together with her continued lack of engagement, demonstrated an unwillingness to comply with such an order, making any conditions of practice order unworkable.

The panel next considered imposing a further suspension order. The panel had regard to the fact that Ms Scott has not engaged with her regulator since the conclusion of the

substantive hearing in August 2018. It also had regard to the fact that the last reviewing panel had given Ms Scott a further opportunity to engage with these proceedings and provide some evidence of her future intentions, insight and remediation. No such engagement has occurred and Ms Scott has not provided any evidence to be considered at this review. The panel noted that in determining sanction at the substantive hearing the NMC informed the substantive panel that Ms Scott “*no longer wished to work as a nurse*”. As such, the panel was of the view that a further period of suspension was unlikely to be fruitful. Ms Scott has shown no commitment to rectifying her failings and remains a risk to the public. Furthermore the panel was of the view that there were serious concerns with regard to Ms Scott’s professionalism as a registrant, and as such, public confidence in the NMC and nursing profession would be undermined if Ms Scott was not removed from the Register permanently.

The panel therefore decided to impose a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 14 March 2020 in accordance with Article 30(1).

This decision will be confirmed to Ms Scott in writing.

That concludes this determination.