

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

**Substantive Order Review Meeting
28 May 2020**

Virtual meeting

Name of registrant: Paul Henry Hunter

NMC PIN: 92Y0803E

Part(s) of the register: Registered Nurse – sub part 1
Adult Nursing (9 November 1995)

Area of Registered Address: England

Type of Case: Misconduct/Health

Panel members: Darren Shenton (Chair, lay member)
Helen Houlton (Registrant member)
Nicholas Cook (Lay member)

Legal Assessor: Christopher McKay

Panel Secretary: Rob James

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: Striking off order to come into effect at the end of
29 June 2020 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mr Hunter's email address as recorded on the register on 8 April 2020.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, dates and venue of the meeting.

The panel accepted the advice of the legal assessor.

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

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision and reasons on review of the substantive order

The panel decided to make a striking off order. This order will come into effect at the end of 29 June 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 30 May 2018. This was reviewed on 22 May 2019 and the suspension order was extended for a further period of 12 months. The current order is due to expire at the end of 29 June 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. *Have or have had in the past, one or more of the health condition(s) set out in the Schedule 1. (the panel found this charge proved in relation to Schedule 1 i) and ii))*

And, in light of the above, your fitness to practice is impaired by reason of your health.

2. *In or around August 2016 removed midazolam from Crosshill Nursing Home ("the Home"). (the panel found this charge proved)*
3. *Your conduct in Charge 2, above, was dishonest in that you knew you were not entitled to remove the medication from the Home. (the panel found this charge proved)*

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

Schedule 1 (Private)

- i. (PRIVATE)
- ii. (PRIVATE)

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

“(PRIVATE)”

.

The panel has received no new information from Mr Hunter. It was of the view that the concerns were and still are remediable. Mr Hunter has not provided any evidence to demonstrate that he has taken action to address the concerns. The panel considered that in the absence of any further information or engagement with the substantive panel’s recommendations, there remains a real risk of repetition.

The panel noted the original panel’s determination in relation to Mr Hunter’s insight in relation to misconduct:

‘In relation to insight, the panel noted that Mr Hunter made admissions to the offence of theft of medication during his interview with the police on 27 October 2016. (PRIVATE)’

The panel noted the original panel’s determination in relation to Mr Hunter’s insight in relation to his health:

‘(PRIVATE)’

This panel found that as a result of his lack of engagement, it had no evidence that Mr Hunter’s level of insight has developed further. The panel therefore determined that Mr Hunter is liable to repeat matters of the kind proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection and in the public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance.

For these reasons, the panel finds that Mr Hunter’s fitness to practise remains impaired.”

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

“The panel next considered replacing the suspension order with a conditions of practice order. Given that Mr Hunter has not engaged with the NMC and there were no concerns about his clinical practice, the panel considered that it could not formulate practicable and workable conditions of practice.

The panel next considered imposing a further suspension order. The panel noted that Mr Hunter has not engaged with the NMC (PRIVATE). Nevertheless, the panel considered that given Mr Hunter’s engagement with the NMC (PRIVATE), and his long career as a nurse, it would be fair to him to allow a further period of time to re-engage with the NMC. The panel was of the view that this was the appropriate and proportionate response in the circumstances. The panel was satisfied that the suspension order will satisfy the public interest in this case and will maintain public confidence in the profession as well as the NMC as the regulator. Further, the suspension order will declare and uphold proper professional standards.

The panel noted that a striking off order was available to it in view of the misconduct found. The panel determined that a striking off order would be disproportionate at this stage. However, it noted that a striking off order would also be available to the next reviewing panel and in the absence of any further information about Mr Hunter’s progress, the next panel might decide that a striking off order was no longer disproportionate.

The panel considered that the next reviewing panel would be assisted by the following:

- *A reflective piece from Mr Hunter demonstrating insight into the misconduct and dishonesty in this case;*
- *Any steps, if any, Mr Hunter has been taking to manage his health conditions;*
- *(PRIVATE)*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Hunter'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 and has 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 registrant's fitness to practise remains impaired.

The panel took account of the fact that Mr Hunter has not engaged with the NMC since March 2018, a period of over two years. The substantive and first reviewing panels provided information on what he would need to do if he wished to continue his nursing career and also warned him of the possible outcome if he did not follow these instructions.

Mr Hunter has provided no evidence to this panel of any insight into how his misconduct had an effect on the patients in his care, his colleagues or the reputation on the nursing profession by way of reflection. (PRIVATE).

Mr Hunter has also not demonstrated to this panel that he has attempted to remediate while suspended from nursing by way of reading nursing journals or undertaking online courses. He has also failed to demonstrate remorse for his misconduct which included dishonesty.

In light of this the panel determined that Mr Hunter remains liable to repeat matters of the kind found proved. (PRIVATE). The panel therefore determined 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. The panel considered that the public would be particularly concerned if a panel was of the view that a registrant's fitness to practise was no longer impaired following a lack of insight, remediation and also (PRIVATE).

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

Decision and reasons on sanction

Having found Mr Hunter'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 first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Hunter's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that registrant's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 Mr Hunter'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 bore in mind the seriousness of the facts found proved at the original hearing and Mr Hunter's lack of engagement with the NMC in terms of remediation of the misconduct (PRIVATE). It concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest.

The panel next considered imposing a further suspension order. The panel noted that Mr Hunter has not shown any remorse for his misconduct since the substantive hearing. Further, he has not provided any evidence demonstrating insight into his previous failings. The panel was of the view that considerable evidence would be required to show that Mr Hunter no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose, given that Mr Hunter has been encouraged to engage with his regulator and has also been warned of the outcome if he did not. The panel took into account the fact that Mr Hunter has been suspended for over two years which has provided ample time for him to address his shortcomings in this matter. The panel noted that a registrant has a duty to cooperate with the requirements of his regulator. The panel noted the seriousness of the misconduct and determined that it was necessary to take action to prevent Mr Hunter 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.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 29 June 2020 in accordance with Article 30(1).

This decision will be confirmed to Mr Hunter in writing.

That concludes this determination.