

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

**Substantive Order Review Meeting  
2 November 2020**

**Virtual Meeting**

**Name of registrant:** Christina Patricia Sinclair-MacDonald

**NMC PIN:** 97C1018E

**Part(s) of the register:** Registered Nurse (Sub Part 1)  
Mental Health Nursing – May 2001

**Area of registered address:** Suffolk

**Type of case:** Misconduct

**Panel members:** Deborah Jones (Chair, lay member)  
Natasha Duke (Registrant member)  
Barbara Stuart (Lay member)

**Legal Assessor:** Paul Housego

**Panel Secretary:** Melissa McLean

**Order being reviewed:** Suspension order (6 months)

**Fitness to practise:** Impaired

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

## **Service of Notice of Meeting**

The panel noted that Notice of this Meeting was sent to Mrs Sinclair-MacDonald's registered email address on 19 August 2020. The Notice of Meeting informed Mrs Sinclair-MacDonald that her case would be considered at a meeting on or after 2 November 2020.

The panel accepted the advice of the legal assessor.

The panel considered whether notice of this meeting had been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules"). The panel noted that under the recent amendments made to the Rules during the Covid-19 emergency period, a Notice of Meeting may be sent to a registrant's registered address by recorded delivery and first class post or to a suitable email address on the register.

The panel considered that notice of this meeting was sent to an email address held for Mrs Sinclair-MacDonald on the NMC register, and that this was sent at least 28 days in advance of the date she was informed the meeting would be considered on or after. The panel noted that Mrs Sinclair-MacDonald was informed that her suspension order would be reviewed at a meeting on or after 2 November 2020, unless she asked for the review to take place at a hearing.

In these circumstances, the panel was satisfied that the Notice of this Meeting had been served in accordance with the Rules. The panel was also satisfied that it was appropriate to proceed with this review at a meeting, given that Mrs Sinclair-MacDonald has not requested a hearing.

## 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 18 December 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of six months by a panel of the Fitness to Practise Committee panel on 20 May 2019. This order was last reviewed on 5 May 2020 and the suspension order was extended for a further six months.

The current order is due to expire at the end of 18 December 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, whilst employed by the Norfolk & Suffolk NHS Foundation Trust at the Carlton Court Hospital, on 19 August 2017;*

*1) ...*

*1.1 ...*

*1.2 ...*

*1.3. ...*

*2) Instructed staff members to use pain compliance techniques on Patient A.*

*3) Did not adequately document in Patient A's clinical notes;*

*3.1 The response to Patient A's challenging behaviour.*

3.2 ...

3.3 *The rationale and/or decision made to use pain compliance techniques on Patient A*

3.4 ...

4) *Incorrectly recorded in a Datix Form that a medical review had been conducted for Patient A*

5) *Inappropriately blocked fire doors.*

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

The second reviewing panel on 5 May 2020 determined the following with regard to impairment:

*“The panel noted that the substantive panel found that, while Mrs Sinclair-MacDonald’s misconduct was remediable, her lack of engagement meant that the panel had no evidence of any insight, remorse or remediation from Mrs Sinclair-MacDonald. The last reviewing panel had no new information from Mrs Sinclair-MacDonald and this panel was in exactly the same position. Mrs Sinclair-MacDonald’s lack of engagement has persisted and, as a result, this panel has no new information before it. It therefore concluded that, in the absence of any evidence of any remediation, insight or remorse, there remains a risk of repetition. In these circumstances, the panel was satisfied that Mrs Sinclair-MacDonald’s fitness to practise remains impaired on public protection grounds.*

*The panel also bore 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 the proper standards and behaviour. The panel was satisfied that, in light of the seriousness of Mrs Sinclair-MacDonald’s misconduct and her lack of engagement, public confidence in the profession and the regulator*

*would be undermined if a finding of impairment were not made in light of the seriousness of the matters found proved in this case. The panel was therefore satisfied that a finding of current impairment on public interest grounds also continued to be appropriate.”*

The second reviewing panel on 5 May 2020 determined the following with regard to sanction:

*“The panel then moved on to consider the imposition of a further period of suspension. It noted that Mrs Sinclair-MacDonald’s disengagement with the NMC has persisted and she has not provided any evidence of remediation or insight to the substantive panel or either this or the previous review. However, the panel also bore in mind that Mrs Sinclair-MacDonald’s misconduct occurred on a single day and is potentially capable of remediation, should she choose to engage. The panel was of the view that a further period of suspension would give Mrs Sinclair-MacDonald an opportunity to engage and demonstrate remediation.*

*The panel did give serious consideration to a striking-off order, bearing in mind that this is the second review (and third NMC hearing overall) which Mrs Sinclair-Donald has failed to engage with. However, the panel decided that it would be disproportionate to strike Mrs Sinclair-MacDonald off the register at this stage, given that her misconduct appeared to be an isolated event, is capable of remediation and, if remediated, is not fundamentally incompatible with remaining on the NMC register.*

*However, this panel wishes to make it clear to Mrs Sinclair-MacDonald that all registered nurses have a duty to engage and co-operate with the NMC. If Mrs Sinclair-MacDonald does not take this opportunity to engage and demonstrate insight and remediation, then the next reviewing panel may decide that her persistent lack of engagement and remediation is fundamentally incompatible with being a registered nurse and determine that a striking-off order is the proportionate outcome.*

*Taking account of all of the above, the panel decided that a further six month suspension order was the appropriate and proportionate outcome at this time. This would protect the public, satisfy the public interest and give Mrs Sinclair-MacDonald ample opportunity to demonstrate engagement and any remediation that she has been able to undertake during this further period of suspension.”*

## **Decision and reasons on current impairment**

The panel has considered carefully whether Mrs Sinclair-MacDonald’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.

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 Sinclair-MacDonald’s fitness to practise remains impaired.

The panel took into account the charges found proved against Mrs Sinclair-MacDonald and noted that they were serious and that the incidents took place whilst she was the nurse in charge. The panel had regard to the previous review panel’s findings and took account of the fact Mrs Sinclair-MacDonald has not engaged with the NMC in any way. It noted that the last reviewing panel found that Mrs Sinclair-MacDonald had not demonstrated any insight or remorse. This panel had no new information to make a different finding.

This panel noted that the original substantive panel found that, while Mrs Sinclair-MacDonald's misconduct was remediable, her lack of engagement meant that the panel had no evidence of any reflection or remediation. The last reviewing panel had no new information from Mrs Sinclair-MacDonald and this panel was in exactly the same position. This panel noted that Mrs Sinclair-MacDonald has not taken any steps to remedy the concerns raised about her fitness to practise. It took account of what the previous panel had stated what a future reviewing panel would be assisted by and noted that none of these documents had been provided.

The last reviewing panel found that Mrs Sinclair-MacDonald was liable to repeat matters of the kind found proved. Today's panel has received no further information on which it could make a different decision. In light of this the panel determined that Mrs Sinclair-MacDonald is liable in the future to put patients at unwarranted risk of harm and therefore there remains a risk of repetition. The panel was also of the view that in light of the lack of remediation, the public would remain at risk of harm if Mrs Sinclair-MacDonald was able to practise without restriction. For these reasons, the panel 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.

For these reasons, the panel finds that Mrs Sinclair-MacDonald's fitness to practise remains impaired.

### **Decision and reasons on sanction**

Having found Mrs Sinclair-MacDonald'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 and the risk of repetition identified.

Taking no further action would not restrict Mrs Sinclair-MacDonald's practice and, as such, would not protect the public. 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 also be inappropriate for the same reasons.

The panel next considered whether a conditions of practice order on Mrs Sinclair-MacDonald's registration would be a sufficient and appropriate response. The panel concluded that in the absence of any engagement or insight from Mrs Sinclair-MacDonald, it would not be possible to formulate workable conditions which would protect the public and satisfy the public interest. The panel also noted the original substantive panel's findings that it was unable to identify any conditions which would address the misconduct identified.

The panel next considered imposing a further suspension order. The panel noted that Mrs Sinclair-MacDonald has not shown remorse for her misconduct. Further, Mrs Sinclair-MacDonald has not demonstrated any insight into her previous failings. The panel agreed with the last reviewing panel that the further six month suspension order that they imposed was an adequate length of time for Mrs Sinclair-MacDonald to provide demonstrate insight and remediation. However, she has not done so. Moreover, Mrs Sinclair-MacDonald has continued her disengagement with the process.

The panel was of the view that considerable evidence would be required to show that Mrs Sinclair-MacDonald no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in the circumstances. The panel determined that it was necessary to take action to prevent Mrs Sinclair-MacDonald from practising in the future and concluded that as she has not engaged with her regulator, 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 at the end of 18 December 2020 in accordance with Article 30(1).

This decision will be confirmed to Mrs Sinclair-MacDonald in writing.

That concludes this determination.