

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

**Substantive Order Review Meeting
Wednesday 7 October 2020**

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

Name of registrant: Sarah Rosaleena Coutts

NMC PIN: 82J1154E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – March 1986

Area of registered address: Surrey

Type of case: Misconduct and Conviction

Panel members: Caroline Healy (Chair, registrant member)
Susan Greenwood (Registrant member)
Jan Bilton (Lay member)

Legal Assessor: Nigel Ingram

Panel Secretary: Catherine Acevedo

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: Striking-off order to come into effect at the end of
22 November 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 Mrs Coutts was not in attendance and that the Notice of Meeting had been sent to Mrs Coutts' registered email address on 4 September 2020.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, date 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 Mrs Coutts 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).

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

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 22 November 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 Fitness to Practise panel on 23 October 2018 for 12 months. The order was reviewed on 15 October 2019 and a further suspension order was imposed for a period of 6 months. The order was subsequently reviewed on 6 April 2020 and a further suspension order was imposed for a period of 6 months.

The current order is due to expire at the end of 22 November 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. On 22 February 2017 attended work in a Nursing role while under the influence of alcohol.*
- 2. On 28 March 2017 at South West Surrey Magistrates’ Court, were convicted of Driving with excess alcohol, contrary to section 5(10(a) of the Road Traffic Act 1988.*
- 3. Between 23 May 2017 and 6 September 2018 failed to co-operate with an investigation into your fitness to practise conducted by the NMC, [PRIVATE].*

And in light of the above, your fitness to practise is impaired by reason of your misconduct in relation to charges 1 and 3 and your conviction in relation to charge 2”.

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

“The panel noted the previous panel’s findings in relation to Mrs Coutts’ lack of remediation and insight. Mrs Coutts has not engaged with the NMC since 2018. As such, this panel has no new information before it to determine whether Mrs Coutts’ insight had developed in the last eighteen months or whether she had taken any steps to remedy the issues found by the substantive panel.

The last panel determined that Mrs Coutts was liable to repeat matters of the kind found proved. This panel has received no information to determine that this has been remediated and that there is no longer a risk of repetition. In light of this the

panel determined that Mrs Coutts remains liable to repeat matters of the kind found proved. 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 has 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 Coutts' fitness to practise remains impaired by reason of both her misconduct and conviction'.

The second 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 of repetition identified 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 order but concluded that this would also be inappropriate in view of the risk of repetition identified and seriousness of the case. In addition, having found Mrs Coutts' fitness to practise impaired on public protection grounds a caution order would provide no restriction on her practice. The panel therefore determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether to impose a conditions of practice order. Whilst the panel was of the view that Mrs Coutts' misconduct was, in theory, remediable this would require engagement from Mrs Coutts. The panel therefore concluded that there were no workable or practicable conditions which could be formulated which would address the public protection and public interest identified in this case in light of Mrs Coutts' non-engagement.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Coutts further time to fully reflect on her previous misconduct and conviction.

The panel concluded that a further six month suspension order would afford Mrs Coutts adequate time to re-engage with the NMC, demonstrate she has developed her insight and demonstrate remediation. [PRIVATE]. The panel noted that Mrs Coutts has not done so to date, despite the suggestion of the previous panel. The panel considered a suspension order to be the most appropriate and proportionate sanction available at this time.

The panel gave careful consideration to a striking off order in light of Mrs Coutts' disengagement [PRIVATE]. The panel was mindful of the need to balance public confidence in the nursing profession and the NMC with fairness to Mrs Coutts. The panel was of the view that it is not in the public interest to continually suspend a nurse.

However, the panel was mindful that Mrs Coutts had raised [PRIVATE] as a reason for her non-participation in the original hearing which only came to light at the previous review hearing. The panel acknowledged that these [PRIVATE] may be the reason for Mrs Coutts' continued non-engagement with the review hearings. The panel noted that the previous reviewing panel imposed a further period of suspension to afford Mrs Coutts an opportunity to engage with the NMC [PRIVATE]. This panel has determined that Mrs Coutts should be afforded one further opportunity to re-engage with these proceedings.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 23 May 2020 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order, including that of a striking-off order.

To assist the future reviewing panel, this panel would urge Mrs Coutts to:

- *[PRIVATE]*.
- *[PRIVATE]*;
- *[PRIVATE]*. Provide a written reflective statement on the possible outcomes of having attended work under the influence of alcohol”.

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Coutts’ 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, including the NMC bundle.

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 Coutts’ fitness to practise remains impaired.

The panel noted the decisions of the previous panels in relation to Mrs Coutts’ lack of remediation and insight. Mrs Coutts has not engaged with the NMC since before the substitutive hearing in October 2018. As such, this panel has no new information before it to determine whether Mrs Coutts’ insight has developed since she last engaged with the NMC or whether she has taken any steps to remedy the issues found by the substantive panel.

The last panel determined that Mrs Coutts was liable to repeat matters of the kind found proved. This panel has received no information to determine that this has been remediated and that there is no longer a risk of repetition. In light of this the panel determined that Mrs

Coutts remains liable to repeat matters of the kind found proved. 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.

For these reasons, the panel finds that Mrs Coutts' fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Coutts' 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 risk of repetition identified 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 order but concluded that this would also be inappropriate in view of the risk of repetition identified and seriousness of the case. In addition, having found Mrs Coutts' fitness to practise impaired on public protection grounds a caution order would provide no restriction on her practice. The panel therefore determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether to impose a conditions of practice order. Whilst the panel was of the view that Mrs Coutts' misconduct was, in theory, remediable this would require engagement from Mrs Coutts. The panel therefore concluded that there were no workable or practicable conditions which could be formulated which would address the public protection and public interest identified in this case in light of Mrs Coutts' non-engagement.

The panel next considered imposing a further suspension order. The panel noted that Mrs Coutts' has not engaged with the NMC's proceedings and that she has not demonstrated any insight or remediated her misconduct. [PRIVATE]. The panel noted that Mrs Coutts has not done so to date, despite the suggestion of the previous panels. The panel was of the view that considerable evidence would be required to show that Mrs Coutts no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel determined that it was necessary to take action to prevent Mrs Coutts 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 22 November 2020 in accordance with Article 30(1).

This decision will be confirmed to Mrs Coutts in writing.

That concludes this determination.