

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

**Substantive Order Review Meeting
15 October 2020**

Nursing and Midwifery Council
Virtual meeting

Name of registrant:	Mr Piotr Szuca
NMC PIN:	06K0125C
Part(s) of the register:	Registered Adult Nurse – Sub Part 1 (24 November 2006)
Area of registered address:	Argyll
Type of case:	Misconduct
Panel members:	Eileen Skinner (Chair, lay member) Susan Tokley (Registrant member) James Hurden (Lay member)
Legal Assessor:	Andrew Granville-Stafford
Panel Secretary:	Tara Hoole
Order being reviewed:	Suspension order (six months)
Fitness to practice:	Impaired
Outcome:	Striking-off order to come into effect on 27 November 2020 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Meeting

As of 31 March 2020 a number of temporary amendments to The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended) (the Rules) came into force, in response to the current Covid-19 pandemic.

As a result of these amendments the Nursing and Midwifery Council (NMC) is now able to serve notice of hearings by email and has the power to hold hearings and meetings virtually.

The panel was informed at the start of this meeting that notice had been sent to Mr Szuca on 2 September 2020 to his registered email address. The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed and informed Mr Szuca that his suspension order would be reviewed before its expiry at a meeting no sooner than 12 October 2020 and gave him the opportunity to request a hearing. There has been no response from Mr Szuca.

The panel accepted the advice of the legal assessor.

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

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 26 November 2020 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 26 October 2018. This was first reviewed by a panel on 16 October 2019 and a suspension order was imposed

for six months. It was subsequently reviewed by a panel on 24 April 2020 and a further six month suspension order was imposed.

The current order is due to expire at the end of 26 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, whilst working as an agency nurse at Lynn of Lorne Care Home:

1. ...
2. *On the night shift of 12 to 13 January 2017 in relation to Resident B:*
 - i. *Administered 14 units of Humalog at 23:00 which was not prescribed;*
 - ii. *Did not properly document the care that you provided;*
 - iii. *Did not adequately escalate concerns relating to abnormal blood sugar levels.*

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 Mr Szuca’s fitness to practise remains impaired, and determined that there has been no new information or evidence provided to undermine the previous finding that his current fitness to practise is impaired.

The panel noted the previous panel’s findings in relation to Mr Szuca’s lack of remediation and insight. Mr Szuca has not engaged with the NMC since 18 October 2019. As such, this panel has no new information before it to determine whether Mr Szuca’s insight had developed in the last six months or whether he had taken any

steps to remedy the issues found by the substantive panel and the previous reviewing panel.

The last panel determined that Mr Szuca 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 Mr Szuca 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 Mr Szuca's fitness to practise remains impaired by reason of his misconduct.'

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 Mr Szuca's fitness to practise impaired on public protection grounds a caution order would provide no restriction on his 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 Mr Szuca's misconduct was, in theory, remediable this would require engagement from Mr Szuca. 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 Mr Szuca's non-engagement.

The panel determined therefore that a suspension order is the only appropriate and proportionate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months. The panel decided that six months would allow Mr Szuca an opportunity to re-engage with the NMC and provide evidence that he is willing to remediate his misconduct. This suspension order will take effect upon the expiry of the current conditions of practice order, namely at the end of 26 November 2019 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001.

The panel seriously considered whether to impose a striking-off order but concluded that due to the remediable nature of Mr Szuca's failings, this would be disproportionate at the present time and he should be given a further opportunity to engage and remediate his nursing practice. In deciding against a striking-off order, the panel bore in mind Mr Szuca's correspondence with the NMC on 18 October 2019 in which he stated his intention to return to nursing as soon as possible and that he would try his best to provide the necessary evidence required. Although this panel has not received such evidence, it decided to provide Mr Szuca with a further opportunity to present such evidence to a future panel. The panel would remind Mr Szuca that any future reviewing panel may consider that a continued lack of engagement with the NMC is fundamentally incompatible with remaining on the register and that a striking-off order may be appropriate in the circumstances of Mr Szuca's case.

Any future reviewing panel may be assisted by:

- Mr Szuca's re-engagement with the NMC proceedings;*
- Evidence of any training or other means Mr Szuca has attempted/achieved in keeping up to date with his practice;*

- *Any evidence of Mr Szuca's employment status, whether involving voluntary or paid work;*
- *Any up to date testimonials;*
- *Evidence of steps Mr Szuca has taken to remediate his practice.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Szuca'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 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 Mr Szuca's fitness to practise remains impaired.

The panel noted the last reviewing panel's findings in relation to Mr Szuca's lack of insight, remorse or remediation. The panel noted, as did the last reviewing panel, that Mr Szuca has not engaged with the NMC proceedings since 18 October 2019. The panel has no new information before it to determine whether Mr Szuca's insight has developed in the last six months or whether he has taken any steps to remedy his practice. The panel has no information before it as to whether Mr Szuca has kept his nursing skills or knowledge up to date whilst he has not been able to work as a nurse.

The last panel determined that Mr Szuca was liable to repeat matters of the kind found proved. This panel has received no information to determine that there is no longer a risk of repetition of these failings. In light of this the panel determined that Mr Szuca 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 considered that Mr Szuca's failure to engage meaningfully with his regulator over a period of several years could damage confidence in the NMC as regulator, as well as the reputation of the nursing profession. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

Decision and reasons on sanction

Having found Mr Szuca 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 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 Mr Szuca's fitness to practise impaired on public protection grounds a caution order would provide no restriction on his 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 substituting the current suspension order with a conditions of practice order. Whilst the panel was of the view that Mr Szuca's failings were, in theory, remediable this would require engagement from Mr Szuca. 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 Mr Szuca's non-engagement.

The panel next considered imposing a further suspension order. The panel considered that Mr Szuca has now been under a suspension order for 12 months and has not engaged with the NMC process or complied with any of the clear recommendations of the previous panel.

The panel noted that Mr Szuca has not shown remorse for his misconduct and has not demonstrated any insight into, or remediation of, his previous failings. The panel was of the view that the ongoing risk to the public therefore remains.

The panel was of the view that significant evidence would be required to show that Mr Szuca no longer posed a risk to the public. In view of the above the panel determined that a further period of suspension would not serve any useful purpose.

In addition, the panel considered that it was not in the public interest to continually suspend a nurse nor is it in Mr Szuca's interest. The panel considered that public confidence in nurses could not be maintained by allowing Mr Szuca to remain on the register. It considered that, in the circumstances, Mr Szuca's lack of engagement with these proceedings along with the lack of insight, remorse or remediation at this time are fundamentally incompatible with his remaining on the register.

The panel therefore determined that it was necessary to take action to prevent Mr Szuca 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. The panel therefore directs the registrar to strike Mr Szuca's name off the register.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 26 November 2020 in accordance with Article 30(1).

This decision will be confirmed to Mr Szuca in writing.

That concludes this determination.