

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

**Substantive Order Review Hearing  
22 October 2020**

Nursing and Midwifery Council  
Virtual Hearing

<b>Name of registrant:</b>	<b>Adele Worthington</b>
<b>NMC PIN:</b>	00I3716E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – September 2003
<b>Area of registered address:</b>	Lancashire
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Rachel Ellis (Chair, Lay member) Susan Greenwood (Registrant member) Sadia Zouq (Lay member)
<b>Legal Assessor:</b>	Graeme Sampson
<b>Panel Secretary:</b>	Safa Musad
<b>Nursing and Midwifery Council:</b>	Represented by Assad Badruddin, Case Presenter
<b>Miss Worthington:</b>	Present and unrepresented
<b>Order being reviewed:</b>	Suspension order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Conditions of practice order (12 months) to come into effect immediately in accordance with Article 30 (1)</b>

## **Decisions and reasons on application for hearing to be held in private**

At the outset of the hearing, Mr Badruddin made a request that parts of this case be held in private on the basis that proper exploration of your case involves reference to your health condition and personal life. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application to the extent that any reference to your health condition and personal life should be heard in private.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when reference to your health condition and personal life are discussed in order to protect your privacy with respect to matters relating to your private matters.

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current suspension order with a conditions of practice order. This order will come into effect immediately in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first effective review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 July 2018. This order was first reviewed on 25 June 2019 and the reviewing panel decided that your fitness to practise was no longer impaired and that the order would lapse upon its expiry. However, the decision that your fitness to practise was no longer impaired was appealed by the Professional Standards Authority (PSA). The appeal was dealt with by way of a consent order dated 15 September 2020. Accordingly, the appeal was allowed by the High Court and your suspension order remained in place. The current order has no expiry date imposed.

The panel were advised by the legal assessor that although the High Court order gave no expiry date for the renewed suspension order this hearing should be treated as a rehearing of the review hearing heard on the 25 June 2019. The findings and decision of that panel having been set aside by the court. The panel accepted that advice.

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, working for Pennine Acute Hospitals NHS Trust ('the Trust'):*

1. *On 13 April 2017, whilst working on Ward 7 (the Ward):*

a) ...

b) *Failed to complete observations on NEWS charts for one or more of the following patients in bay 1;*

i) *Patient 1; and/or (the panel found this charge proved)*

ii) *Patient 2; and/or (the panel found this charge proved)*

iii) *Patient 3; and/or (the panel found this charge proved)*

iv) ...

v) ...

c) *Entered observations which you did not conduct onto the observation sheets of one or more of the following patients;*

i) *Patient 1; and/or (the panel found this charge proved)*

ii) *Patient 2; and/or (the panel found this charge proved)*

iii) ...

iv) ...

d) *Your actions as described in charge 1C above were dishonest, in that you intended to mislead any reader of the observations sheets. (the panel found this charge proved)*

2. *With reference to the patients in Bay 1 on 13 April 2017, you stated to one or more colleagues:*

a) *'they are all alkies anyway' or words to that effect; (the panel found this charge proved)*

b) *Why are they all listening to the patients as they are all alkies' or words to that effect; (the panel found this charge proved)*

*And in light of the matters set out above, your fitness to practise is impaired by reason of your misconduct;*

The original panel determined the following with regard to impairment:

*Whilst there was no evidence of actual harm in this case, by not undertaking observations for patients but falsifying records to indicate that these had been done, Miss Worthington created a false picture of the physiological condition of these patients. The panel had regard to the evidence of Mr 2, who had said that by not having observations taken, patients could be put at risk of harm, as it may not have been possible to identify a deterioration in their condition. Falsifying patient records would have given a misleading impression of the care given to patients to other healthcare professionals reviewing those records, which could have had an impact on the plans of care for those patients.*

*The panel considered that falsifying patient records and being dishonest, as well as speaking about patients in a disrespectful manner brought the profession into disrepute. The panel considered that honesty, integrity and prioritising patient care are fundamental tenets of the nursing profession, and Miss Worthington breached such tenets through her actions. The panel had regard to its earlier findings at the facts stage of this hearing, and reiterated*

*that Miss Worthington had behaved dishonestly by entering observations onto patient records when she had not conducted such observations.*

*In considering whether Miss Worthington was liable to put patients at risk of harm, bring the profession into disrepute, breach fundamental tenets of the profession and behave dishonestly in the future, the panel assessed whether there was any evidence of remediation, insight and remorse in this case.*

*In assessing whether there was any evidence of remediation on Miss Worthington's part, the panel applied the test set out in the case of Cohen. The panel considered that whilst record keeping errors may be capable of remediation, falsifying records to indicate observations had been taken, dishonesty, and the comments made about patients may be indicative of behavioural issues, which would be difficult to remediate. However, such conduct was not in theory impossible to remediate. This remediation could be demonstrated through Miss Worthington providing a thorough explanation for her actions, demonstrating insight and displaying remorse. However, in the absence of any engagement from Miss Worthington, the panel had no such evidence of reflection on her part. The panel therefore considered that there was no evidence of remediation in this case. The panel determined that a risk of repetition remained, and therefore Miss Worthington remained liable to put patients at risk of harm, bring the profession into disrepute, breach fundamental tenets of the profession and behave dishonestly in the future.*

*The panel therefore determined that a finding of impairment was necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that members of the public would expect registered nurses to prioritise patients, treat them with respect and*

*provide effective care at all times. By not undertaking observations, falsifying records and making disrespectful comments about patients Miss Worthington did not meet such standards and expectations of a nurse. The panel therefore determined that a finding of impairment was necessary on public interest grounds in order to maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.*

*Having regard to all of the above, the panel was satisfied that Miss Worthington's fitness to practise is currently impaired.*

The original panel determined the following with regard to sanction:

*The panel first outlined what it deemed to be the aggravating and mitigating factors in this case, and determined the following:*

*Aggravating factors:*

- Miss Worthington's dishonesty involved a deliberate deception to cover up a failure to undertake nursing duties, albeit over the course of one single shift;*
- There has been no evidence of insight and remorse on Miss Worthington's part;*
- Miss Worthington put patients at risk of harm, albeit no actual harm occurred.*

*Mitigating factors:*

- Miss Worthington has had no previous adverse regulatory findings against her in a career of 14 years as a registered nurse;*
- The misconduct in this case occurred over the course of a single shift.*

*The panel then assessed the dishonesty in this case, and where it fell on the spectrum of seriousness. The panel considered that Miss Worthington's actions involved a deliberate attempt to conceal clinical issues and put patients at risk of harm. Therefore, the dishonesty in this case did not fall at the lower end of the spectrum. However, this conduct occurred over the*

*course of one shift and was limited in scope and therefore the panel did not consider that the dishonesty fell at the higher end of the spectrum of seriousness.*

*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 determined that taking no further action would not protect the public and it would not satisfy the public interest.*

*The panel next considered whether a caution order would be appropriate in the circumstances. The panel took into account the SG, which 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 Fitness to Practise Committee wishes to mark that the behaviour was unacceptable and must not happen again.”*

*The panel considered that Miss Worthington’s misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.*

*The panel next considered whether to impose a conditions of practice order. The panel did not consider that there were any areas of Miss Worthington’s clinical practice which were in need of further training and remediation. The panel had regard to the fact that the misconduct in this case could be indicative of a behavioural issue. Miss Worthington had not demonstrated any insight into her conduct. Furthermore, she had not engaged with the NMC’s proceedings. There was therefore no evidence of a willingness to comply with conditions of practice on her part. In these circumstances, the panel considered that it was not possible to devise practicable and workable conditions which would protect the public and satisfy the public interest.*

*The panel then considered whether to impose a suspension order. The panel had regard to the SG which states that this sanction may be appropriate where some or more of the following factors are apparent:*

*“*

- A single instance of misconduct but where a lesser sanction is not sufficient*
- no evidence of harmful deep-seated personality or attitudinal problems*
- no evidence of repetition of behaviour since the incident*
- the Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour”*

*The panel considered that this case did concern a single instance of misconduct, where the failings arose over the course of one shift and there was no evidence of repetition of the behaviour since that shift. However, the panel considered that Miss Worthington’s dishonesty and comments about patients may be indicative of an attitudinal problem. Balancing that, the NMC witnesses indicated that she was well liked. There was no evidence, however, before the panel, of any insight on Miss Worthington’s part, and as previously determined, there was a risk of her repeating her behaviour.*

*The panel gave serious consideration as to whether Miss Worthington’s behaviour required only temporary removal from the register, or whether her behaviour was fundamentally incompatible with being a registered nurse. The panel therefore went on to consider whether to impose a striking-off order.*

*The panel had regard to the SG which states that*

*“This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional, which may involve any of the following factors.*

- A serious departure from the relevant professional standards as set out in key standards, guidance and advice.*

- *Doing harm to others or behaving in such a way that could foreseeably result in harm to others, particularly patients or other people the nurse or midwife comes into contact with in a professional capacity. Harm is relevant to this question whether it was caused deliberately, recklessly, negligently or through incompetence, particularly where there is a continuing risk to patients. Harm may include physical, emotional and financial harm. The seriousness of the harm should always be considered.*
- ...
- *Dishonesty, especially where persistent or covered up...*
- *Persistent lack of insight into seriousness of actions or consequences.”*

*The panel considered that Miss Worthington’s actions involved a serious departure from the professional standards expected of a registered nurse, and her actions were of a nature that could foreseeably result in harm to patients. Miss Worthington did behave dishonestly, albeit over the course of one single shift. Whilst she had not demonstrated a persistent lack of insight, there was no evidence of insight and remorse on her part. After carefully balancing these factors, the panel concluded that whilst dishonesty is always serious in a clinical setting, this occurred over the course of one single shift, in an otherwise unblemished career of 14 years as a registered nurse. The panel had regard to the evidence of the NMC’s witnesses in this case, who had said that they had worked with Miss Worthington for many years, that she was well liked and therefore there was no evidence of any issues prior to the incidents on 13 April 2017. In these circumstances, in a finely balanced decision, the panel determined that the seriousness of the case was not incompatible with ongoing registration, and a striking-off order was not the only sanction sufficient to protect the public interest in this case. The panel concluded that a suspension order is the appropriate and proportionate sanction in this case.*

*The panel noted the hardship such an order will inevitably cause Miss Worthington. However, this is outweighed by the public interest in this case.*

*The panel determined that a suspension order would protect the public whilst also marking the seriousness of the misconduct, and sending to the public a clear message about the standard of behaviour required of a registered nurse. The panel also considered that a period of suspension would give Miss Worthington the opportunity to reflect on her conduct, provide an explanation for her behaviour and to develop insight and remorse into her actions.*

*The period of the suspension order is the maximum of 12 months, which the panel considered necessary to mark the seriousness of the misconduct and the public interest in this case. This would maintain public confidence in the nursing profession and in the NMC as a regulator, whilst declaring and upholding proper standards of conduct.*

*At 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.*

*A future reviewing panel may be assisted by the following:*

- Miss Worthington's engagement and/or attendance at a review hearing;*
- A reflective piece written by Miss Worthington using a recognised model or framework demonstrating insight and remorse into the conduct which occurred on 13 April 2017 and demonstrating a recognition of any possible harm that could have resulted from her actions;*
- References or testimonials from any work, whether paid or unpaid; Evidence of Miss Worthington keeping her clinical skills and knowledge up to date.*

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

The panel has considered carefully whether your 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, your oral evidence and reflective piece. It has taken account of the submissions made by Mr Badruddin on behalf of the NMC.

Mr Badruddin outlined the background of the case and referred the panel to the relevant documents. He referred the panel to your reflective piece and noted that you accept that you placed patients at direct risk of harm [PRIVATE]. Mr Badruddin submitted that although you have developed insight you failed to address all of the concerns. He submitted that in your reflective piece there is no mention in detail of the impact of your actions on the wider nursing profession.

Mr Badruddin also drew the panel's attention to the positive reference from the nursing Home Manager dated 20 October 2020, where you are currently employed as a senior carer. He submitted that this reference does not comment on your honesty regarding your record keeping or patient observations which relate back to the regulatory concerns. Mr Badruddin submitted that although you have made some progress as a healthcare assistant and have demonstrated some insight in relation to the regulatory concerns, you have yet to demonstrate insight regarding the specific and detailed impact of your actions.

Mr Badruddin submitted that although you are currently working as a healthcare assistant, there is limited evidence to demonstrate you have addressed the clinical concerns. He submitted that, due to your suspension order, you have been unable to demonstrate a safe period of practice as a nurse and that a risk of repetition remains. Mr Badruddin submitted that your fitness to practise remains impaired on the grounds of public protection and also in the public interest.

Mr Badruddin invited the panel to impose a conditions of practice order. He submitted that a conditions of practice order would give you the opportunity to demonstrate a period of safe and effective practice and allow you to address the clinical concerns. Mr Badruddin suggested some conditions that the panel may seek to impose. These included that you

must work under indirect supervision, you must not work as the only registered nurse on a shift, and you must produce a personal development plan (PDP) focusing on your clinical areas and to produce a report and a reflective piece discussing the impact of your actions on the profession and your colleagues.

The panel also had regard to your oral evidence. You stated that you have no excuse for your actions which could have put patients at direct risk of harm. You said that you are remorseful and have had an unblemished 14 year career.

You stated that you have always wanted to work in the nursing profession which is why you continue to work as a carer. You informed the panel that you are now working as a senior carer but before this you struggled to get a job. Further, you informed the panel that your current employers are fully aware of your suspension order. In your previous position you were also required to complete a behaviour chart after every shift and had to be supervised at all times you were working.

You told the panel that you are sorry for what you did and you would not do anything like that again. You stated that your actions on that shift were unforgivable. You stated that your failure to conduct patient observations gave a false picture of patient diagnosis and it was not a true reading for doctors and other colleagues and that placed patients at potential risk of harm. Further, you stated that your actions damaged patients and relatives' trust in the profession. You told the panel that it is important to maintain integrity and honesty as a nurse. [PRIVATE].

You informed the panel that it has been three years since you have practised as a registered nurse and that you have been unable to keep your nursing skills up to date. You informed the panel that you wish to return to nursing and you accept and understand the NMC's position as you wish to prove yourself. You stated that you do not think your fitness to practice is currently impaired. You stated that you wish to seek employment as a nurse and to return to the NHS and that you wish to complete a return to nursing course.

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 your fitness to practise remains impaired.

The panel noted that the original panel found that you had insufficient insight. At this hearing the panel noted that you demonstrated insight. The panel took into account your oral submissions and your reflective piece and noted that you demonstrated an understanding of how your actions put patients at direct risk of harm. The panel also noted that you demonstrated an understanding of why what you did was wrong and how this impacted upon the reputation of the nursing profession and colleagues. The panel also noted that you apologised for your misconduct. When questioned during the course of this hearing about how you would handle the situation differently in the future, you were able to indicate that you would seek support from your employers and that you would not repeat such actions.

In its consideration of whether you have remedied your practice, the panel took into account the reference from your employer dated 20 October 2020 and your reflective piece. However, the panel was of the view that there was no evidence to demonstrate a period of safe and effective practice as a registered nurse given that you have been suspended over the past three years and have been unable to keep your nursing practise up to date. In light of this, this panel determined that you are 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 noted that you have demonstrated insight into your dishonesty, however, the panel was of the view that since you have not practised as a nurse for a long period of time, members of the public would be concerned if you were to return to nursing without demonstrating safe nursing practice. For this reason, 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 your fitness to practise remains impaired.

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

Having found your 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 given the seriousness of the charges identified. 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 risk of repetition identified given that you have not practised as a registered nurse for three years, an order that does not restrict your 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 your 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 considered substituting the current suspension order with a conditions of practice order. Despite the seriousness of your misconduct, there has been evidence produced to show that you have developed insight and demonstrated remorse into your failings in both your reflective piece and your oral submissions. You have also indicated that you wish to return to nursing and to undertake a return to nursing course.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice and would serve to protect the public and the reputation of the profession in the meantime.

The panel determined that a suspension order would be disproportionate at this stage due to the public interest with respect to the dishonesty having been satisfied by the extended period of suspension for now over two years.

Accordingly, the panel concluded that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions of practice:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.’

1. You must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of working at all times on the same shift as but not always directly observed by a registered nurse.
  
2. You must work with your line manager and/or supervisor to create a personal development plan (PDP). Your PDP must address the concerns about patient observations and record keeping. You must:
  - a) Send your case officer a copy of your PDP before any NMC review hearing or meeting.
  - b) Meet with your line manager and/or supervisor at least monthly to discuss your progress towards achieving the aims set out in your PDP.
  - c) Send your case officer a report from your line manager and/or supervisor before any NMC review hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.

3. You must keep us informed about anywhere you are working by:
  - a) Telling your case officer within seven days of accepting or leaving any employment.
  - b) Giving your case officer your employer's contact details.
  
4. You must keep us informed about anywhere you are studying by:
  - a) Telling your case officer within seven days of accepting any course of study.
  - b) Giving your case officer the name and contact details of the organisation offering that course of study.
  
5. You must immediately give a copy of these conditions to:
  - a) Any organisation or person you work for.
  - b) Any agency you apply to or are registered with for work.
  - c) Any employers you apply to for work (at the time of application).
  - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
  - e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.
  
6. You must tell your case officer, within seven days of your becoming aware of:
  - a) Any clinical incident you are involved in.
  - b) Any investigation started against you.
  - c) Any disciplinary proceedings taken against you.
  
7. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a) Any current or future employer.
- b) Any educational establishment.
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

This conditions of practice order will replace the current suspension order with immediate effect in accordance with Article 30(1)

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

This will be confirmed to you in writing.

That concludes this determination.