

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

**Substantive Order Review Hearing
8 September 2020**

Virtual Hearing

Name of registrant: Roxanne Desrie Belgrave-Dawkins

NMC PIN: 10G0034C

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (6 July 2010)

Area of registered address: Swindon

Type of case: Misconduct

Panel members: William Nelson (Chair, Lay member)
Susan Foster (Registrant member)
Michael Glickman (Lay member)

Legal Assessor: Fiona Barnett

Panel Secretary: Edmund Wylde

Nursing and Midwifery Council: Represented by David Claydon, Case Presenter

Roxanne Desrie Belgrave-Dawkins: Not present and not represented

Order being reviewed: Suspension order (6 months)

Fitness to Practise: Impaired

Outcome: Order to lapse upon expiry in accordance with Article 30(1), namely at the end of 15 October 2020

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Belgrave-Dawkins was not in attendance and that the Notice of Hearing had been sent to Mrs Belgrave-Dawkins' registered email address on 31 July 2020.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time and date of this virtual hearing and, amongst other things, information about Mrs Belgrave-Dawkins' right to attend and be represented, how to attend the virtual hearing, and her right to call evidence, as well as the panel's power to proceed in her absence.

Mr Claydon, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 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 Mrs Belgrave-Dawkins has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Belgrave-Dawkins

The panel next considered whether it should proceed in the absence of Mrs Belgrave-Dawkins. The panel had regard to Rule 21 and heard the submissions of Mr Claydon who invited the panel to continue in the absence of Mrs Belgrave-Dawkins.

Mr Claydon submitted that there had been no engagement at all by Mrs Belgrave-Dawkins with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Belgrave-Dawkins. In reaching this decision, the panel has considered the submissions of Mr Claydon and the advice of the legal assessor. Mrs Belgrave-Dawkins has not engaged with the NMC in respect of today's hearing and has provided no written representations for consideration in her absence. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. It bore in mind that:

- No application for an adjournment has been made by Mrs Belgrave-Dawkins;
- Mrs Belgrave-Dawkins has not engaged with the NMC in respect of this hearing and has not responded to any of the correspondence sent to her about this hearing;
- There is no reason to suppose that adjourning would secure Ms Belgrave-Dawkins' attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Belgrave-Dawkins.

Decision and reasons on application for parts of the hearing to be held in private

Mr Claydon made a request that this case be held partly in private on the basis that there may be reference to Mrs Belgrave-Dawkins' health and family circumstances. The application was made pursuant to Rule 19.

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 if and when there is any reference to Mrs Belgrave-Dawkins' health and family circumstances.

Decision and reasons on review of the substantive order

The panel decided to allow the order to lapse upon its expiry, namely at the end of 15 October 2020, in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of a substantive order originally imposed as a conditions of practice order for a period of nine months by a panel of the Fitness to Practise Committee on 15 November 2017. That order was reviewed and extended for a further 9 months on 16 August 2018. On 13 May 2019 the second reviewing panel replaced the conditions of practice order with a suspension order for a period of six months. That suspension order was extended for a further four months by the third reviewing panel on 12 November 2019. On 26 February 2020, a reviewing panel extended the suspension order for a further period of 6 months. The current order is due to expire at the end of 15 October 2020.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved, most by way of admission, which resulted in the imposition of the substantive order were as follows:

That you, a registered nurse, whilst in post as a Band 5 Nurse on Ailesbury Ward of the Savernake Community Hospital:

1. *On 19 March 2016, in relation to a patient A, failed to:*
 - 1.1 *administer insulin in the morning and/or at lunchtime;*
 - 1.2 *make any, or any adequate record of the patient's blood sugar levels.*
2. *...*
3. *On 30 April 2016, failed to adequately check the prescription for the patient in bed 25 in that:*
 - 3.1 *you missed the prescription for oral antibiotics; and*
 - 3.2 *a lansoprazole fast tab was prescribed, but you were going to administer a capsule.*
4. *On 30 April 2016, failed to adequately check the prescription for the patient in bed 26, in that Ferrous Fumarate was prescribed, but you were going to administer Ferrous Sulphate.*
5. *On 30 April 2016, failed to administer vitamin B to the patient in bed 27 until Colleague A informed you there was Vitamin B available on the trolley.*
6. *On 1 May 2016, in relation to the Patient in Bed 25, failed to:*
 - 6.1 *turn on the oxygen canister after you had changed it;*
 - 6.2 *recheck the patient's oxygen saturation levels and/or conduct observations of the patient.*

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

The panel noted that there was no new information before it since the previous review hearing, and therefore there had been no material change of circumstances. It considered that Mrs Belgrave-Dawkins had not been engaging with more recent proceedings. Whilst she had previously engaged with the proceedings when

conditions of practice orders had been imposed at the substantive hearing in 2017, and at the first review hearing in 2018, there was no information to suggest any engagement since then. The recommendations made by the previous reviewing panel had not been addressed, and there was no evidence before this panel that Mrs Belgrave-Dawkins had remediated any of her clinical failings. The panel therefore considered that a risk of repetition remained and determined that a finding of impairment remains necessary on the grounds of public protection.

The panel 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 proper standards of conduct and performance. The panel also determined that a finding of impairment remains necessary on public interest grounds.

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

The fourth 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. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.

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. 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. Whilst previous panels had deemed conditions of practice orders workable, Mrs Belgrave-Dawkins has not engaged with these proceedings since the last occasion when such an order was imposed, namely in August 2018. In these circumstances, the panel determined that it would not be possible to formulate practicable and workable conditions to address the outstanding areas of risk identified with Mrs

Belgrave-Dawkins' practice, which would sufficiently protect the public and satisfy the public interest.

The panel considered whether to impose a further period of suspension. It gave careful consideration as to whether this would serve any useful purpose, in light of the fact that two previous reviewing panels had imposed suspension orders, and during that time, Mrs Belgrave-Dawkins had not engaged with these proceedings. No further information had been put forward regarding Mrs Belgrave-Dawkins' circumstances, health or her intentions in relation to nursing and whether she had taken any steps to remediate her practice. The panel had some doubt in its mind as to whether a further period of suspension would serve any useful purpose, in helping to facilitate Mrs Belgrave-Dawkins' return to safe and effective practice.

The panel seriously considered whether to impose a striking-off order. It had regard to the background in this matter. The panel noted that when Mrs Belgrave-Dawkins' case was first considered at the original substantive hearing in 2017, she had been engaging, and that panel found she had demonstrated sufficient insight. A conditions of practice order had been imposed, giving Mrs Belgrave-Dawkins the opportunity to remediate clinical failings, in order to facilitate her return to nursing practice. At that time, Mrs Belgrave-Dawkins had also informed the panel of serious concerns regarding her health. At the next reviewing hearing, Mrs Belgrave-Dawkins had continued to engage with the proceedings, and the conditions were varied in light of the information she had put forward. It was since that review hearing hearing, that a pattern of non-engagement from Mrs Belgrave-Dawkins had emerged. However, the panel had regard to the fact that the original concerns had been deemed remediable, and Mrs Belgrave-Dawkins had previously worked towards trying to remedy her practice. In these circumstances, the panel considered that Mrs Belgrave-Dawkins should be given a further, and perhaps final, opportunity to display evidence of remediation and to provide information regarding her health and current circumstances and her future intentions in relation to nursing. The panel concluded that a striking-off order would be disproportionate, at this time.

The panel therefore determined that a suspension order would be appropriate and proportionate in the circumstances of this case. Whilst noting a recent history of non-engagement from Mrs Belgrave-Dawkins, the panel also gave careful

consideration to the background in all of these proceedings. The panel considered that a further suspension order would allow further time for Mrs Belgrave-Dawkins to engage with these proceedings, to provide information regarding her current circumstances, including her health and any work she has undertaken and to indicate whether she has intentions of continuing to work as a nurse in the future. It considered that a suspension order for a period of six months would provide sufficient time for Mrs Belgrave-Dawkins to give regard to these considerations, and that this would protect the public and satisfy the public interest.

This suspension order will come into effect upon the expiry of the current order, namely at the end of 15 April 2020, in accordance with Article 30(1) of the Order.

Prior to its expiry, this order will be reviewed by another panel. At that review, the panel may revoke the order, allow the order to lapse on expiry, extend the order or replace the order with another order, including that of a striking-off order.

A future reviewing panel may be assisted by evidence of the following:

- Mrs Belgrave-Dawkins' engagement with these proceedings and her attendance at a future review hearing, whether in person, video-link or telephone;*
- Up to date information regarding Mrs Belgrave-Dawkins' health, any current work she is undertaking and her future intentions in relation to nursing;*
- How Mrs Belgrave-Dawkins has maintained and kept her clinical practice up to date, in particular in the administration of medicine;*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Belgrave-Dawkins' 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. It has taken account of the submissions made by Mr Claydon on behalf of the NMC. Mrs Belgrave-Dawkins has provided no written representations or other documentation for consideration in her absence.

Mr Claydon informed the panel of the background to the case and invited its attention to the relevant documentation before it. He submitted that, while some insight was shown at the substantive hearing and the misconduct in this case is in itself remediable, there is no evidence of remediation before this panel; in fact there is no information before this panel as to Mrs Belgrave-Dawkins' health, circumstances, and maintenance of knowledge and skills. As such, Mr Claydon submitted that Mrs Belgrave-Dawkins' fitness to practise remains currently impaired.

Mr Claydon reminded the panel of an email from Mrs Belgrave-Dawkins, dated 15 February 2020, which was, most regrettably, not put before the previous reviewing panel due to an administrative failure by the NMC, which indicates that Mrs Belgrave-Dawkins wishes to voluntarily remove herself from the register.

In respect of sanction, Mr Claydon submitted that it would be difficult to see what an extension of the current suspension order would achieve, given the lack of engagement by Mrs Belgrave-Dawkins and the decision of the last reviewing panel. He reminded the panel that it is open to this panel to either allow the order to lapse upon expiry or impose a striking-off order. Mr Claydon submitted that the guidance in respect of allowing an order to lapse ('Allowing orders to expire when a nurse or midwife's registration will lapse', 9 April 2018) requires more information from Mrs Belgrave-Dawkins than that which has been provided. However, Mrs Belgrave-Dawkins has also not made an application to revalidate her registration, therefore her PIN remains active only due to these proceedings. Mr Claydon submitted that the NMC is broadly neutral in respect of matters of sanction, other than to say that a further period of suspension may not be in any party's interests, given Mrs Belgrave-Dawkins' lack of engagement; such a sanction is not helpful as regards protection of the public, addressing the public interest in this case, and may not be in Mrs Belgrave-Dawkins' interests.

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 Mrs Belgrave-Dawkins' fitness to practise remains impaired. The panel noted that the charges found proved in this case amounted to serious misconduct, and related to fundamental aspects of nursing.

There is no new information before this panel to indicate that Mrs Belgrave-Dawkins has taken steps to remediate her practice, develop her insight beyond that expressed at the substantive hearing, or undertake any up-to-date training or learning in respect of the areas of regulatory concern. The panel determined that there has been no material change in the circumstances of the case, and therefore the level of risk; the concerns in respect of Mrs Belgrave-Dawkins' practice have not been fully remediated and therefore a risk of repetition remains live.

For these reasons, the panel finds that Mrs Belgrave-Dawkins' fitness to practise remains impaired, on grounds of both public protection and public interest.

Decision and reasons on sanction

Having found Mrs Belgrave-Dawkins' 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 considered whether to take no further action and allow the order to lapse upon expiry, having made a finding of impairment on public protection and public interest grounds. It considered the relevant NMC guidance in this respect.

The panel bore in mind that Mrs Belgrave-Dawkins has previously indicated a desire to be removed from the nursing register, that her registration is only active by virtue of these proceedings, and this panel's clear finding of current impairment. Were Mrs Belgrave-Dawkins to wish to return to nursing following the expiry of this order and the concurrent lapsing of her registration, she would have to persuade the Registrar that she is a fit and proper person – a particularly high threshold, given this panel's finding of current impairment which would be considered by the Registrar. Accordingly, the panel was satisfied that Mrs Belgrave-Dawkins could not return to nursing until she was able to show that she had successfully addressed the deficiencies in her practice which led to these proceedings.

The panel noted that it does not have a clear explanation before it as to Mrs Belgrave-Dawkins' future intentions. However, it bore in mind that the NMC guidance is not prescriptive, but merely advisory. Given Mrs Belgrave-Dawkins' sustained lack of substantive engagement with the regulatory process over a protracted period of time, and the fact that her email indicating her wish to be removed from the register was not placed before the last reviewing panel, it is perhaps understandable that such an explanation is not forthcoming.

In that context, the panel then considered whether to impose a caution order but concluded such a course of action would be inappropriate in view of the nature and seriousness of the case, as well as its finding of impairment on public protection grounds. In the light of the above, the panel considered that an order which does not restrict Mrs Belgrave-Dawkins' practice would not be appropriate in the circumstances of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel also considered substituting the current suspension order with a conditions of practice order. It considered that a conditions of practice order could not be a workable or proportionate sanction in the circumstances of the case, given Mrs Belgrave-Dawkins' sustained lack of engagement with the regulatory process. The panel was not satisfied that Mrs Belgrave-Dawkins would engage with a conditions of practice order, such as to protect the public and adequately address the public interest.

The panel considered whether to impose a further suspension order. It determined that, given Mrs Belgrave-Dawkins' protracted lack of engagement, a further period of suspension would not serve any useful purpose – and would not adequately serve the public interest or Mrs Belgrave-Dawkins' own interests.

The panel considered whether to impose a striking-off order. It bore in mind that the public can be adequately protected by allowing the current order to lapse, and that such a course of action would also address the public interest and Mrs Belgrave-Dawkins' interests. To impose a striking-off order in these circumstances would therefore not be the least restrictive and appropriate sanction – that is, it would not be proportionate, in the circumstances of the case.

The panel concluded that allowing the current order to lapse upon expiry would adequately protect the public, as Mrs Belgrave-Dawkins would not be able to practise until its lapse – or thereafter without first satisfying the requirements of the Registrar. Furthermore, this panel considered that allowing the order to lapse would address the public interest in this case appropriately; an informed member of the public would not consider professional standards to be undermined by such a course of action, and may indeed consider their confidence in the NMC as a proportionate and humane regulator to be augmented. The panel concluded that to allow the current order to lapse upon expiry would address the overarching objective of the NMC, by ensuring that the public are sufficiently protected, and also address the public interest and Mrs Belgrave-Dawkins' interests proportionately.

Therefore, taking all the above into account, the panel determined to allow the order to lapse upon its expiry, namely the end of 15 October 2020 in accordance with Article 30(1).

This decision will be confirmed to Mrs Belgrave-Dawkins in writing.

That concludes this determination.