

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

**Substantive Order Review Hearing  
Wednesday 17 February 2021**

**Virtual Hearing**

**Name of registrant:** Emma Laura Green

**NMC PIN:** 00K0066E

**Part(s) of the register:** Registered Nurse  
Adult Nursing – November 2003  
Specialist Practitioner – June 2007  
Nurse Prescriber – June 2007

**Area of registered address:** Merseyside

**Type of case:** Misconduct

**Panel members:** Caroline Healy (Chair, Registrant member)  
Marcia Smikle (Registrant member)  
Sue Davie (Lay member)

**Legal Assessor:** Nigel Mitchell

**Panel Secretary:** Graeme King

**Nursing and Midwifery Council:** Represented by Matthew Kewley, case presenter

**Miss Green:** Not in attendance or represented in absence

**Order being reviewed:** Suspension order (8 months)

**Fitness to practise:** Impaired

**Outcome:** **Striking off order, pursuant to Article 30(1), to come into effect at the end of 26 March 2021**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Green was not in attendance and that the Notice of Hearing had been sent electronically to her registered email address on 15 January 2021.

The panel noted that under the recent amendments made to the Nursing and Midwifery Council (NMC) (Fitness to Practise) Rules Order of Council 2004 (as amended) (the Rules) during the Covid-19 emergency period, a notice of hearing 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 took into account that the Notice of Hearing provided details of the substantive order being reviewed, including the time, date and the video conferencing details required to join the hearing. The Notice also included information about Miss Green's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Kewley, on behalf of the NMC, submitted that it had complied with the requirements of Rules 11 and 34 of the Rules. He drew the panel's attention to the proof of posting bundle and to an email dated 16 February 2021 from Miss Green to the NMC in response to the Notice of Hearing.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time and dates of the hearing, and information about Miss Green's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Green had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require proof of postal delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered contact details.

### **Decision and reasons on proceeding in the absence of Miss Green**

The panel next considered whether it should proceed in the absence of Miss Green. It had regard to Rule 21 and heard the submissions of Mr Kewley who invited the panel to proceed to hear the case in the absence of Miss Green. Mr Kewley drew the panel's attention to an email Miss Green had sent to the NMC on 16 February 2021 that stated:

*'I no longer wish to be involved in this process and have no intention of returning to nursing.'*

Mr Kewley submitted that due to Miss Green's continued lack of engagement with the NMC, she had voluntarily absented herself from this hearing. He further submitted that there would be no useful purpose in adjourning the hearing given Miss Green's consistent disengagement and that there was a strong public interest in this mandatory review being heard.

The panel accepted the advice of the legal assessor.

The panel noted Miss Green's email to the NMC on 16 February 2021 advising the NMC that she did not plan to engage with the process and no longer wished to practise as a nurse. The panel considered this to be consistent with Miss Green's indication at the first review hearing in June 2019 that she no longer wished to practise as a nurse. The panel noted that:

- Miss Green had not made an application to adjourn.
- Miss Green had indicated that she did not plan to engage with the NMC proceedings and had no plans to pursue a career in nursing.
- There is a strong public interest in the expeditious disposal of this mandatory review hearing prior to its expiry on 26 March 2021.

In these circumstances, the panel was satisfied that Miss Green had deliberately and voluntarily chosen not to attend the hearing. Having weighed the interests of Miss Green with those of the NMC and the public interest in an expeditious disposal of this hearing the panel determined to proceed in Miss Green's absence.

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

The panel decided to impose a striking off order. This order will come into effect at the end of 26 March 2021 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 24 months by a Conduct and Competence Committee panel on 22 June 2017. The original order was changed to a 12 month suspension order on 13 June 2019 and that suspension was extended by a further 8 months on 11 June 2020.

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

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

*'That you, a Registered Nurse whilst employed as a Practice Nurse at Shay Lane Medical Centre:*

- 1. Between 17 August 2015 and 12 October 2015 incorrectly labelled or failed to label one or more smear tests.*

2. *On or around 16 September 2015 failed to test and/or label a urine sample before sending to the laboratory.*
3. *On 12 October 2015 failed to store vaccines appropriately.*
4. *On 12 October 2015 attempted to administer a flu vaccine to a patient that had attended for a blood pressure check.*
5. *On 12 October 2015 failed to complete adequate records of patient consultations for one or more patients.*
6. *Between August 2015 and October 2015 failed to record that you had administered a child's 12 week immunisations.*

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

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

*'The panel noted that, at the last review, the panel had no information from Miss Green regarding her compliance with the conditions of practice or any other remediation, nor evidence of any further insight. At the last hearing, Miss Green indicated that she no longer wished to practise or engage with this process. Since the last hearing the NMC has received no further communication from Miss Green. This panel therefore had no evidence of remediation or insight, beyond what was presented at the substantive hearing in 2017. In the absence of further remediation or insight, the panel concluded that there remained a risk of repetition and therefore a finding of current impairment on public protection grounds continued to be required.*

*The panel also determined that a finding of current impairment on public interest grounds continued to be required to maintain standards and uphold public confidence in the profession and the regulatory process.'*

The previous reviewing panel determined the following with regard to sanction:

*'The panel next considered a further period of suspension. It considered that this would protect the public for the time it was in force and would give Miss Green further time to reflect and consider her future intentions as regards the nursing profession.*

*The panel noted that Miss Green has previously stated that she does not intend to continue to practise as a nurse and has not engaged with this hearing. However, the panel bore in mind that Miss Green is a highly qualified nurse and her misconduct is capable of remediation, should she choose to do so. For these reasons, the panel decided that a striking-off order would be disproportionate at this stage.*

*The panel therefore determined that the appropriate and proportionate sanction at this time was a further period of suspension for eight months. It considered that eight months would give Miss Green adequate opportunity to reflect further and consider her future career intentions. This suspension order will take effect upon the expiry of the current suspension order, namely the end of 26 July 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.*

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

- Miss Green's attendance at a future review hearing, whether in person or by video-link;*
- Evidence of Miss Green's future intentions in relation to nursing;*
- A reflective piece from Miss Green;*
- Evidence of what Miss Green has been doing, including any work or training she has undertaken, whether in a healthcare setting or otherwise;*

- *Any other information or testimonials that Miss Green would wish to put before the panel.*

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

The panel considered whether Miss Green'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 noted the decision of the last panel, this panel exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it which included the NMC bundle. It has taken account of the submissions made by Mr Kewley and accepted the advice of the legal assessor.

Mr Kewley outlined the background of this case and referred the panel to the charges found proved by the substantive panel on 22 June 2017. Mr Kewley submitted that Miss Green had now been subject to one period of conditional practise and two periods of suspension without engaging with the NMC. Mr Kewley submitted that there is no information before the panel to demonstrate that Miss Green had taken any action to remediate her misconduct. Mr Kewley further submitted that, in line with Miss Green's email to the NMC on 16 February 2021 advising that she would not engage with the process and did not wish to practise, there appears to be no prospect of her remediating her practice.

Mr Kewley invited the panel to find that Miss Green's fitness to practice remains impaired on public protection and public interest grounds.

With regard to sanction, Mr Kewley submitted that while the concerns about Miss Green's practice were remediable, there is now a substantial period of persistent disengagement and no evidence of remediation. Mr Kewley submitted that Miss Green

had not provided any of the information that the previous reviewing panel indicated would be helpful to this panel, nor was there any indication that she would comply with any requests this panel made. Mr Kewley submitted that the decision on sanction lay with the panel.

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 Miss Green's fitness to practise remains impaired. The panel noted that the charges found proven by the original panel are serious and wide-ranging. It considered that Miss Green had been consistent with her position of not wishing to practise as a nurse since May 2019. The panel had no information before it to demonstrate any attempts Miss Green had taken to remediate the concerns regarding her practice. The panel also considered that Miss Green had not provided any information to suggest she had developed further insight into the concerns raised. The panel considered that there had been no material change of circumstances since the previous review hearing. The panel therefore decided that a finding of continuing impairment is 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 determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel found that Miss Green's fitness to practise remains impaired.

## **Determination on sanction**

Having found Miss Green'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 also took into account the NMC's Sanctions Guidance (SG) and bore in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel had regard to the factors found proved by the initial substantive panel in coming to their decisions.

The panel first considered whether to take no action or to impose a caution order, but concluded that this would not be sufficient to protect the public and would be inappropriate in view of the risk to patient safety identified and the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action or to impose a caution order.

The panel next considered whether to replace the suspension order with a conditions of practice order. The panel had no evidence before it of any change of circumstances or attempts at remediation since the last review. It concluded that a conditions of practice order would not be practicable or workable, especially given the seriousness of the charges found proved at the substantive hearing, Miss Green's lack of engagement with the NMC and the fact she had not been working as a nurse, nor did she have any intention to do so.

The panel next considered extending the current suspension order. It noted that Miss Green had not provided the panel with any evidence showing that she had further developed insight, remediated or had plans to remediate her practice. The panel noted that Miss Green had consistently indicated that she did not wish to practise as a nurse. It therefore determined, due to Miss Green's continued disengagement, her consistent position of not wishing to return to nursing, and a lack of evidence to suggest her

practice had been (or was in the process of being) remediated, that a further period of suspension would not serve any useful purpose.

The panel noted that the previous reviewing panel made it clear that Miss Green's misconduct was capable of remediation and that it suggested means by which Miss Green could have done so. However, Miss Green had not provided any of the information that the previous reviewing panels suggested. The panel also considered that the last review panel had made it clear that a striking off order would be a sanction available to any future reviewing panel. The panel noted Miss Green's consistent desire to leave the nursing profession and determined that the public interest will be best served by not prolonging proceedings any longer than necessary and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. It also concluded that public confidence in the profession could not be maintained if Miss Green were to remain on the register.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 26 March 2021 in accordance with Article 30(1).

This decision will be confirmed to Miss Green in writing.

That concludes this determination.