

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

**Substantive Order Review Meeting
Thursday, 6 May 2021**

Virtual Meeting

Name of registrant: Mrs Jean Mary Paterson

NMC PIN: 97J0866E

Part(s) of the register: RNC, Registered Nurse – Children
(1 October 2000)

Area of Registered Address: Northamptonshire

Type of Case: Lack of Competence

Panel members: Elizabeth Burnley (Chair, lay member)
Judith Bayly (Registrant member)
John McGrath (Registrant member)

Legal Assessor: Nigel Mitchell

Panel Secretary: Melissa McLean

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: Striking off order to come into effect at the end of
13 June 2021 in accordance with Article 30 (1)

Service of Notice of Meeting

The panel noted that the Notice of this Meeting was sent to Mrs Paterson's email address on 22 March 2021. The Notice of Meeting informed Mrs Paterson that her case would be considered at a meeting on or after 26 April 2021.

The panel accepted the advice of the legal assessor.

The panel considered whether notice of this meeting had been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules"). The panel noted that under the recent amendments made to the Rules during the Covid-19 emergency period, a Notice of Meeting 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 considered that notice of this meeting was sent to an email address held for Mrs Paterson by the NMC, and that this was sent at least 28 days in advance of the date she was informed the meeting would be considered on or after. The panel noted that Mrs Paterson was informed that her suspension order would be reviewed at a meeting on or after 26 April 2021, unless she asked for the review to take place at a hearing.

In the light of all of the information available, the panel was satisfied that Mrs Paterson has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Rules. The panel was also satisfied that it was appropriate to proceed with this review at a meeting, given that Mrs Paterson has not requested a hearing.

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 13 June 2021 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed by a Fitness to Practise panel on 14 May 2018 for 12 months. This was reviewed on 1 May 2019 and a further suspension order was imposed for a period of 12 months. This was subsequently reviewed on 1 May 2020 and a further suspension order was imposed for a period of 12 months. The current order is due to expire at the end of 13 June 2021.

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, whilst working for Northamptonshire Healthcare NHS Foundation Trust in a community nursing role:

- 1) ...
- 2) *On 1 October 2015, during a visit to School A to change a Y-connector for Child A, who is blind and has severe learning difficulties:*
 - a) *Made no attempt to introduce yourself to Child A.*
 - b) *Lifted Child A's t-shirt to inspect him without giving him any warning or explanation of what you were about to do.*
 - c) *Offered no reassurances or explanations to Child A as you carried out medical processes on him.*

- d) ...
 - e) *Did not know how to locate a split in the tube.*
 - f) *Undid the clamp on the tube so that when you removed the Y-connector the contents of Child A's stomach came out of the tube and spilled onto your and Child A's clothes.*
 - g) *Following events in (f) above, attempted to clean yourself before Child A.*
 - h) *Following events in (f) above, stated 'I guess I'm going to stink for the rest of the day now' or words to that effect.*
 - i) *Opened the tube and held it high, causing it to run very quickly, without checking beforehand whether Child A could tolerate receiving the feed quickly.*
 - j) *Demonstrated a general lack of knowledge in relation to how to use a bolus kit.*
- 3) ...
- 4) *On 5 April 2016, during an accompanied home visit to Child C as part of a competency re-assessment, you:*
- a) *Disposed of a used glass vial by putting it on top of the settee, rather than on the clinical tray.*
 - b) *Did not interact with Child C or her mother, or offer either any explanation or reassurance whilst you were treating Child C.*
 - c) *Did not leave the Hickman line for long enough after cleaning, so that it had to be cleaned again.*

- d) *Having made an unsuccessful first attempt to insert Child C's NG tube, failed to tell Child C's mother you were going to make a second or third attempt, or seek her consent for you to do so.*
- e) *When a colleague offered assistance, responded in an aggressive manner and refused assistance.*
- f) *...*
- 5) *On or about 5 April 2016, labelled a child's blood sample incorrectly in that you did not include the NHS or hospital number on the form.*
- 6) *...*
- 7) *On 13 June 2016, discharged Child B when she was still receiving, and in need of, care.*
- 8) *...*
- 9) *On 29 June 2016 and 8 July 2016, administered Sodium Chloride to a service user when its expiry date was recorded as May 2016.*
- 10) *...*
- 11) *On 7 July 2016 attended a home visit to a child, following which you:*
 - a) *Failed to make any record of the visit on the child's record until making a retrospective entry 7 days later.*
 - b) *...*
- 12) *...*

- 13) ...
- 14) ...
- 15) ...
- 16) *On 7 October 2016, during a home visit to a child to perform blood pressure monitoring:*
- a) *Were unable to assemble the monitor.*
 - b) *Used the incorrect size of monitoring cuff.*
- 17) *On 26 October 2016, during a visit to an 11-week old baby, having established that the baby's respiratory rate was raised:*
- a) *Told the baby's mother that the baby's respiratory rate was raised, but did not offer any advice or support.*
 - b) *...*
- 18) ...
- 19) ...
- 20) *Failed numeracy assessments on:*
- a) *4 May 2016*
 - b) *29 September 2016*
 - c) *3 October 2016*
- 21) ...

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

The second reviewing panel on 1 May 2020 determined the following with regard to impairment:

'The panel considered whether Mrs Paterson's fitness to practise remains impaired. In deciding this, the panel had careful regard to what, if anything, had changed since the original finding of impairment which might enable it to conclude that Mrs Paterson's fitness to practise is no longer impaired.

The panel noted that there had been no communication from Mrs Paterson since the last review hearing. Therefore there has been no evidence of remediation, insight or reflection regarding her lack of competence and previous failings. The panel noted that the charges found proved were serious and wide-ranging occurring over a period of time.

The last panel determined that Mrs Paterson 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 Mrs Paterson 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 Paterson's fitness to practise remains impaired.'

The second reviewing panel on 1 May 2020 determined the following with regard to sanction:

'The panel considered the imposition of a further period of suspension. The panel noted that, at the time of the substantive hearing in May 2018, Mrs Paterson had been experiencing difficult personal circumstances. It had no information as to whether Mrs Paterson's personal circumstances had changed or had impacted on her ability to engage with these proceedings. It was of the view that a suspension order would allow Mrs Paterson further time, if she chose to take it, to demonstrate she has fully reflected on the failings found proved, and to take steps to remediate her lack of competence. The panel concluded that a further 12 month suspension order would be the appropriate and proportionate response and would afford Mrs Paterson time to consider her intentions regarding her future nursing career and to demonstrate development of her insight and remediation.

The panel also considered a striking-off order. However, Article 29(6) of the Order provides that a striking-off order is not currently available at this stage in a lack of competence case, as Mrs Paterson has not been suspended continuously for a period of two years immediately preceding today's meeting. The panel noted that if Mrs Paterson's lack of engagement continues a future panel would have this option available to it and may consider this an appropriate sanction if there is no change in the circumstances of this case.

The panel therefore concluded a suspension order, for a period of twelve months, to be the most appropriate and proportionate sanction available. This would afford Mrs Paterson adequate time to re-engage with the NMC proceedings and demonstrate any progress towards her return to practice. This suspension order will take effect upon the expiry of the current suspension order, namely at the end of 13 June 2020 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001.

At the end of the period of suspension another panel will review the order. At that review the panel may revoke the order, or it may confirm the order, or it may replace the order with any other order. The panel noted that it is open to Mrs Paterson to request an early review of her case should there be a change in her

circumstances. This panel considered that a future reviewing panel may be assisted by:

- *Mrs Paterson’s engagement with the NMC (either by attending in person or providing written submissions for the panel);*
- *A statement from Mrs Paterson stating her intentions regarding her future nursing career;*
- *A written reflective piece exploring her shortcomings, any underlying causes of these, and the impact of her failings on her patients, their families, her colleagues and the reputation of the nursing profession;*
- *Any evidence of steps Mrs Paterson has taken to remediate her practice;*
- *Any evidence of steps Mrs Paterson has taken to keep her clinical knowledge up to date.’*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Paterson’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, including the decisions and reasons of the previous panels. It also took into account an email from Mrs Paterson to the NMC dated 11 March 2021 which states:

“I am writing to inform you that I have retired from nursing and have no intention of returning as a nurse.”

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 Paterson's fitness to practise remains impaired. The panel took into account the charges found proved against Mrs Paterson and noted that they were serious. The panel noted that the last reviewing panel found that there had been no evidence of remediation, insight or reflection regarding Mrs Paterson's lack of competence and previous failings. This reviewing panel had no new information before it today. There was nothing before the panel to suggest that Mrs Paterson had addressed any of the recommendations made by the last reviewing panel. The panel noted that there is no evidence before it of any material change in circumstances since the substantive order was imposed and reviewed. The panel also noted that Mrs Paterson has stated that she does not intend to return to the nursing profession as she has retired.

This panel noted that the original substantive panel found that, while Mrs Paterson's lack of competence was remediable, her lack of meaningful engagement meant that the panel had no evidence of any reflection or remediation. The panel noted that from the information before it, Mrs Paterson has not taken any steps to remedy the concerns raised about her fitness to practise. There is also no information to show that Mrs Paterson has addressed the numerous and varied clinical issues identified. The panel bore in mind that Mrs Paterson indicated to the NMC that she no longer wishes to practise as a registered nurse.

The last reviewing panel determined that Mrs Paterson was liable to repeat matters of the kind found proved. Today's panel has received no further information on which it could make a different decision. In light of this the panel determined that Mrs Paterson 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 Paterson's fitness to practise remains impaired by reason of her lack of competence.

Decision and reasons on sanction

Having found Mrs Paterson'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 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 allow the current suspension order to lapse upon expiry. In doing so, the panel had regard to the NMC's guidance entitled 'Allowing orders to expire when a nurse or midwife's registration will lapse' (9 April 2018) ('the Guidance'). The Guidance states that allowing a substantive order to expire following a panel making a finding of impairment is likely to be appropriate if:

- *The nurse or midwife's registration is only active because of the substantive order being in place;*
- *The nurse or midwife does not want to continue practising; and*
- *The public are protected because the panel have made a clear finding that the nurse or midwife's fitness to practise is currently impaired so that this can be drawn to the attention of any future decision-maker if the nurse or midwife attempts to re-join the register.*

"Because nurses and midwives can apply for readmission to the register as soon as their registration lapses, it is important that the panel is sure that the nurse or midwife no longer wants to practise before it decides to let an order expire. This is because if the panel has found the nurse or midwife's fitness to practise to be currently impaired, the nurse or midwife will not have addressed the concerns about their practice, and will not have shown the panel that they do not present a risk to patients. The nurse or midwife will need to give the panel a clear explanation of their plans for the future away from nursing or midwifery. Such information is only likely to be available if the nurse or midwife is in contact with us, so it will be

important for panels to consider if the nurse or midwife is fully engaging with the process before deciding to take this option.”

However, the panel noted the criteria within the Guidance which include that if the nurse does not wish to continue practising, that they will need to give a clear explanation of their plans for the future, and that it is important to consider if they are fully engaging with the process. The panel noted that Mrs Paterson has informed the NMC that she has retired and no longer wishes to return to nursing, however the panel was of the view that a brief email is not sufficient evidence to confirm her intentions. It also noted that Mrs Paterson had been requested by the NMC on a number of occasions to provide substantial evidence to confirm her position on returning to nursing. The panel took into account that at a previous review Mrs Paterson stated that she would be completing re-training. Without a clear statement from Mrs Paterson with regard to her complete future intentions in relation to nursing, the panel did not consider that it would be appropriate to take the option of allowing the current order to lapse on expiry.

The panel then considered whether to take no action but concluded that this would be inappropriate in this case. The panel was of the view that taking no action would be insufficient to mark the seriousness of the charges. In addition, taking no action would not protect the public nor would it address the wider public interest consideration. The panel determined that it would be neither proportionate nor appropriate to take no further action.

For the same reasons, the panel considered that imposing a caution order would not mark the seriousness of the charges. The panel considered that Mrs Paterson's lack of competence 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. It also noted that it had no information from Mrs Paterson in regards to her remediation or insight. The panel decided that it would be neither proportionate, nor in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on Mrs Paterson's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel was of the view that Mrs Paterson has not meaningfully engaged with the NMC and that she has stated she no longer wishes to return to nursing as she has retired. There

is no information before it to conclude that Mrs Paterson is willing to comply with any conditions imposed upon her practice. The panel concluded that in the absence of any engagement or insight from Mrs Paterson, it would not be possible to formulate workable conditions which would protect the public and satisfy the public interest. On this basis, the panel concluded that no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel next considered imposing a further suspension order. The panel noted that Mrs Paterson has not provided any information for this review meeting. The panel also noted that there was reference to Mrs Paterson's personal circumstances however the panel had no information regarding this. The panel concluded that Mrs Paterson had been given ample opportunity by previous panels to demonstrate insight and remediation. It was of the view that considerable evidence would be required to show that Mrs Paterson 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.

In these circumstances, the panel considered that the seriousness of Mrs Paterson's original lack of competence, taken together with her lack of insight and remediation, now meant that it had become fundamentally incompatible with her remaining on the register. The panel determined that it was necessary to take action to prevent Mrs Paterson 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 at the end of 13 June 2021 in accordance with Article 30(1).

This decision will be confirmed to Mrs Paterson in writing.

That concludes this determination.