

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

**Substantive Order Review Meeting  
Tuesday 23 November 2021**

**Virtual Meeting**

**Name of registrant:** Helen Percival

**NMC PIN:** 09G0582E

**Part(s) of the register:** RNMH: Mental Health Nurse Sub Part 1  
(September 2009)

**Area of registered address:** Stockport

**Type of case:** Misconduct

**Panel members:** Mary Hattie (Chair, Registrant member)  
Rosalyn Mloyi (Registrant member)  
Chris Thornton (Lay member)

**Legal Assessor:** John Donnelly

**Panel Secretary:** Sherica Dosunmu

**Order being reviewed:** Suspension order (12 months)

**Fitness to practise:** Impaired

**Outcome:** **Strike off to come into effect at the end of 6  
January 2022 in accordance with Article 30(1)**

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

The panel noted that notice of this substantive order review meeting was sent to Mrs Percival by secure email on 9 August 2021. The notice informed Mrs Percival that her suspension order would be reviewed at a meeting on or after 22 November 2021, unless she asked for the review to take place at a hearing.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Percival has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the 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 6 January 2022 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 for a period of six months by a Fitness to Practise Committee panel on 6 December 2019. This order was first reviewed on 28 May 2020 and extended for a further six months. The order was reviewed again on 24 November 2020 and extended for a further 12 months.

The current order is due to expire at the end of 6 January 2022.

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 employed as a staff nurse at Glenroyd Care Home ("Glenroyd") on 16 April 2016:*

*2) In response to Resident E suffering an unwitnessed fall and suffering a head injury, failed to:*

*a) Contact the out of hours service and/or general practitioner for advice.*

*b) ...*

*c) Complete any or any sufficient observations or record such observations as you did complete.*

*d) ...*

*e) ...*

*f) ...*

*3) Allowed Resident E's family to move him from a chair into bed, despite knowing they had no moving and handling training.*

*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 had no new information before it whatsoever. The panel noted that Mrs Percival has not engaged in these proceedings since the substantive hearing in December 2019 and has not submitted any information for consideration today. There was no information to suggest that Mrs Percival has taken any action to address the issues previously identified. Therefore, the panel could not be satisfied that Mrs Percival is now capable of safe and effective nursing practice.*

*The panel therefore decided that a finding of continuing impairment remains 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 Percival's fitness to practise remains impaired.'*

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 public protection issues 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 public protection issues identified, an order that does not restrict Mrs Percival's practice would not be appropriate.*

*The panel next considered whether imposing a conditions of practice order on Mrs Percival's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered there to be no information before it to suggest that a conditions of practice order would be effective in protecting the public and addressing the public interest in this case. There was no information to indicate that Mrs Percival would be able to comply with a conditions of practice order. Further, given Mrs Percival's lack of engagement, it could not be assured that she would be willing to comply with conditions. On this basis, the panel concluded that a conditions of practice order would not be appropriate.*

*The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. The panel decided to impose a suspension order for the period of 12 months to provide Mrs Percival with an opportunity to engage with the*

*NMC and to provide information as to her progress in addressing the concerns with her nursing practice.*

*The panel was of the view that, at this stage, striking Mrs Percival from the Register would be disproportionate.*

*Before the end of the period of suspension, another panel will review the order. At the review hearing or meeting the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.'*

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

The panel has considered carefully whether Mrs Percival'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 NMC bundle and an email dated 22 July 2021, which was the only response from Mrs Percival. The email stated, '*I have a change of address again I now live at [...] and also a change of contact number [...]*'

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 Percival's fitness to practise remains impaired.

The panel noted that the last reviewing panel had no information before it to suggest that Mrs Percival had demonstrated sufficient remorse or insight. This panel had no new information before it to make a different finding.

In its consideration of whether Mrs Percival has remedied her practice, the panel took into account that the last reviewing panel had no information before it with regard to any steps Mrs Percival may have taken to remediate her practice. This panel was not provided with any evidence of the same from Mrs Percival and had no further information to demonstrate that the concerns about her practice identified by previous panels have been addressed and were unlikely to reoccur. Mrs Percival has not provided any information such as testimonials or employment references. She has not provided a reflective piece or any evidence of insight into her misconduct. She has not provided any evidence that she has kept her nursing skills up to date.

In light of this lack of information and Mrs Percival's lack of engagement, the panel determined that there remains a risk of harm to the public if she was permitted to practise as a nurse without restriction. It also noted that it appears Mrs Percival has made no effort to remediate and improve her practise to demonstrate that she is safe to work with patients and concluded that her fitness to practise remains impaired 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 and maintaining the integrity of the NMC register. 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 Percival's fitness to practise remains impaired.

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

Having found Mrs Percival'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 take no action but concluded that this would be inappropriate in view of the seriousness of the case. 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 public protection issues identified, an order that does not restrict Mrs Percival's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mrs Percival'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 bore in mind that Mrs Percival has not engaged with this meeting neither has she followed the last reviewing panel's recommendations. It also noted that it has no knowledge of her current circumstances. As a result, the panel could not be satisfied that she would be willing to engage with a conditions of practice order in the future and therefore considered that a conditions of practice order is not workable in this case.

The panel next considered imposing a further suspension order. The panel noted that Mrs Percival has not shown remorse for her misconduct. Further, she had not demonstrated adequate insight into her previous failings. The panel has already found that there is a continuing risk to the public. The panel noted it had no information before it to demonstrate any effort made to remediate the issues identified by the original panel and Mrs Percival has now had two years to address these concerns. Additionally, Mrs Percival has not indicated any desire to return as a practising nurse.

In these circumstances the panel determined that a further period of suspension would not serve any useful purpose. The panel determined that it was necessary to take action to

prevent Mrs Percival 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 the end of 6 January 2022 in accordance with Article 30(1).

This decision will be confirmed to Mrs Percival in writing.

That concludes this determination.