

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

**Substantive Order Review Hearing  
Friday 3 September 2021**

Virtual Hearing

<b>Name of registrant:</b>	<b>Mrs Gloria Spraggett</b>
<b>NMC PIN:</b>	16F0867E
<b>Part(s) of the register:</b>	Registered Nurse – Sub part 1 Learning Disabilities – September 2016
<b>Area of registered address:</b>	Nuneaton
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Dale Simon (Chair, Lay member) Laura Scott (Registrant member) Bernadette Nipper (Registrant member)
<b>Legal Assessor:</b>	Lachlan Wilson
<b>Panel Secretary:</b>	Kevin Toskaj
<b>Nursing and Midwifery Council:</b>	Represented by Katie Doherty, Case Presenter
<b>Mrs Spraggett:</b>	Not present and not represented
<b>Order being reviewed:</b>	Conditions of practice order (3 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Suspension order (4 months) to come into effect on 11 October 2021 in accordance with Article 30 (1)</b>

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

The panel was informed at the start of this hearing that Mrs Spraggett was not in attendance and that the Notice of Hearing had been sent to Mrs Spraggett's email address by secured encrypted email on 26 July 2021.

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

Ms Doherty, 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 Spraggett 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 Spraggett**

The panel next considered whether it should proceed in the absence of Mrs Spraggett. It had regard to Rule 21 and heard the submissions of Ms Doherty who invited the panel to continue in the absence of Mrs Spraggett.

Ms Doherty first referred the panel to the email sent to the NMC from Mrs Spraggett, dated 10 August 2021, which stated:

*'Thanks for your email. No, I will not be attending the Hearing'*

Ms Doherty also directed the panel to the note of an attempted telephone call on 2 September 2021:

*'Attempt to call registrant on ...*

*Went to voicemail - left message asking her to call me back.'*

The panel was then told that Mrs Spraggett has emailed the NMC on 3 September 2021, stating:

*'They gave me conditions to satisfy which are impossible to achieve as no hospital had resources to accommodate what the panel wanted.*

*The situation I'm in, places a person in limbo. One needs to get over the hurdle first before planning for the future. The outcome will decide my future.'*

Ms Doherty submitted that Mrs Spraggett has voluntarily absented herself and that there is a strong public interest in the matter proceeding expeditiously. She referred the panel to the principles highlighted in the judgement of *GMC v Adeogba* [2016] EWCA Civ 162. Ms Doherty submitted that Mrs Spraggett has not requested an adjournment and one would not likely secure her attendance.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Spraggett. In reaching this decision, the panel has considered the submissions of Ms Doherty, the email from Mrs Spraggett, and the advice of the legal assessor. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Spraggett has informed the NMC that she will not be attending this hearing and invited the panel to proceed in her absence;
- No application for an adjournment has been made by Mrs Spraggett;
- There is no reason to suppose that adjourning would secure her 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 Spraggett.

## Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a suspension order.

This order will come into effect at the end of 11 October 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 12 months by a Fitness to Practise Committee panel on 13 December 2018. At the most recent review on 4 June 2021, the panel imposed a further conditions of practice order for 3 months.

The current order is due to expire at the end of 11 October 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:*

1. ...
2. *On one or more of the following dates gave 7.5mg of Zopiclone to patient B when this dose had been discontinued:*
  - a. *13 September 2017 (PROVED)*
  - b. *14 September 2017 (PROVED)*
3. *Having given the 7.5mg of Zopiclone as described in charge 2 above you recorded that you had given 3.75mg on the EPMA system; (PROVED)*

4. On or around 7 October 2017, indicated on patient C's electronic prescription record that she had received her Adcal tablet at 09:36hrs when she did not;  
**(PROVED)**

*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 considered whether Mrs Spraggett's fitness to practise remains impaired.*

*The panel noted that the original and last reviewing panel found that Mrs Spraggett had full insight. This panel did not have any evidence before it to show that this has changed. It was therefore satisfied that Mrs Spraggett still has full insight into her failings.*

*In its consideration of whether Mrs Spraggett has remedied her practice, the panel took into account that Mrs Spraggett has not worked as a registered nurse since the last review meeting took place. It noted Mrs Spraggett's email, dated 4 May 2021, in which she states:*

*'Concerning provision of documents of employment and training:*

*I am unable to provide any. My situation is as it was in my last submission. I mean all the reasons given in my last submission still stand.*

*Because of these reasons I got employed as Care Worker and I am happy with my new job as a care worker.*

*I have nothing else to say or add. This is my last submission, please let the panel decide without me be asked for any further information. I am at peace with the way things are.'*

*The panel therefore concluded that Mrs Spraggett has not had the opportunity to comply with the conditions and has not yet demonstrated that she has remediated her practice.*

*The panel therefore determined that there has been no material change in Mrs Spraggett's circumstances since the last hearing. She has not been able to demonstrate that she is a safe and effective practitioner. It concluded that there remains a risk of harm to patients should she be allowed to practice unrestricted. The panel therefore decided that a finding of continuing impairment not 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 Mrs Spraggett has been under a conditions of practice order since 13 December 2018, upcoming to a period of 30 months. The panel determined that the public interest has been served by the two periods of conditions of practice order and concluded that, in this case, a finding of continuing impairment on public interest grounds not required.'*

*For these reasons, the panel finds that Mrs Spraggett's fitness to practise remains impaired.*

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

*'The panel next considered whether imposing a further conditions of practice order on Mrs Spraggett'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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.*

*The panel noted Mrs Spraggett's email, dated 4 May 2021. However, the panel was of the view that Mrs Spraggett's intentions with regard to her nursing career were not clear. It noted that Mrs Spraggett has been working as a care worker for a while now and that she states that she is 'at peace with the way things are'. It was of the*

*view that this is not making it clear if Mrs Spraggett is not able to find employment due to the current conditions of practice or if she does not intend to return to nursing at all.*

*The panel was of the view that a further conditions of practice order is sufficient to allow Mrs Spraggett a last opportunity to inform the panel of her intentions regarding her nursing career and protect the public. In this case, there are conditions could be formulated which would protect patients during the period they are in force.*

*The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Mrs Spraggett's case.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of three months, which will come into effect on the expiry of the current order, namely at the end of 11 July 2021. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:*

- 1. At any time that you are employed or otherwise providing nursing services, you must not work as the nurse in charge of a shift.*
- 2. You must not administer medication unsupervised until your practice has been assessed as competent by your line manager, mentor or supervisor nominated by your employer. Once you have been assessed as competent, this must be confirmed to you in writing by your employer.*
- 3. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance at least 14 days before any NMC review*

*hearing or meeting. Such a report must comment upon your progress in achieving competence in:*

- a) medication administration;*
- b) record keeping; and*
- c) clinical decision-making in respect of the above.*

- 4. You must allow the NMC to exchange, as necessary, information about the standard of your performance with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*
  
- 5. You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
  
- 6. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
  
- 7. You must within 14 days of accepting any post of employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
  
- 8. You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*

9. *You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (8) above, to them:*
- a) Any organisation or person employing, contracting with or using you to undertake nursing work.*
  - b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.*
  - c) Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
  - d) Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take a course (at the time of application).'*

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

The panel has considered carefully whether Mrs Spraggett'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. It has taken account of the submissions made by Ms Doherty on behalf of the NMC.

Ms Doherty provided the panel with a detailed summary of the background to the case and the decisions of previous panels.

Ms Doherty submitted that Mrs Spraggett has not provided today's panel with the materials requested by the previous panel. She also submitted that the NMC has not received information relating to Mrs Spraggett's current employment nor has it received details

about how her conditions of practice order has adversely affected her in securing nursing employment.

Ms Doherty submitted that there remains a risk of repetition of the concerns. She submitted that Mrs Spraggett has not worked in a registered nursing role since 2017 and thus has been unable to demonstrate a period of safe and effective practice.

Ms Doherty also referred the panel to the email from Mrs Spraggett, dated 2 September 2021, where she stated:

*'They gave me conditions to satisfy which are impossible to achieve as no hospital had resources to accommodate what the panel wanted.'*

Ms Doherty submitted that it is a matter for the panel to decide which sanction it deems appropriate and invited it to take into account the previous panel's determination on sanction in addition to the email from Mrs Spraggett.

The panel heard and accepted the advice of the legal assessor, who referred it to the judgement of *Abrahaem v GMC* [2008] EWHC 183 (Admin).

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 Spraggett's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Spraggett had full insight. At this hearing, the panel had no new material information to suggest that she no longer has insight into the concerns.

In its consideration of whether Mrs Spraggett has remedied her practice, the panel did not have evidence before it to demonstrate that she has been practising safely and effectively as she has been unable to secure a position as a registered nurse. The panel noted that

the charges found proved involved serious medication errors which placed patients at a real risk of harm.

The last reviewing panel determined that Mrs Spraggett was liable to repeat matters of the kind found proved. Today's panel has not received any new information that would change this decision. In light of this, the panel determined that Mrs Spraggett is still 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 not required. Similar to the finding of the previous panel, it determined that the public interest has been served by the three periods of conditions of practice order.

For these reasons, the panel finds that Mrs Spraggett's fitness to practise remains impaired on public protection grounds only.

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

Having found Mrs Spraggett'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. 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 Spraggett's practice would not be appropriate in the circumstances.

The panel next considered whether imposing a further conditions of practice order on Mrs Spraggett's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

In the panel's view, Mrs Spraggett has not meaningfully engaged with the NMC since the previous review hearing on 4 June 2021 and there is no information before it to conclude that Mrs Spraggett is willing to comply with any future conditions imposed upon her practice. The panel further noted that the last panel made recommendations to assist this panel in detailing her future nursing intentions or to indicate in detail if the conditions of practice order was preventing her from securing a nursing role. The panel noted that Mrs Spraggett has not engaged with these recommendations.

The panel accepted that Mrs Spraggett has told her NMC case officer that healthcare settings cannot accommodate her conditions of practice order, however, the panel has not been provided with any evidence that she is actively seeking nursing roles. Moreover, this panel does not have any indication from Mrs Spraggett whether she wishes to return to nursing.

On this basis, the panel concluded that a conditions of practice order is no longer the appropriate order in this case as there is no guarantee that any future imposition of a conditions of practice order would secure Mrs Spraggett's full engagement. The panel therefore concluded that no workable conditions of practice could be formulated which would protect the public.

The panel determined therefore that a suspension order is the appropriate sanction which would protect the public. Accordingly, the panel determined to impose a suspension order for the period of 4 months which would provide Mrs Spraggett with an opportunity to engage fully and substantially with the NMC. It also determined that a suspension order would provide Mrs Spraggett with an opportunity to make clear her future nursing intentions. The panel considered this to be the most appropriate and proportionate sanction available.

The panel was of the view that to impose a striking off order would be disproportionate at this time. A striking off order would not be a reasonable response in the current

circumstances of this case, at least until Mrs Spraggett is given a further opportunity to engage with the NMC, explain how she has remediated her fitness to practise, and set out her future practice intentions.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 11 October 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 panel reviewing this case would be assisted by:

- Meaningful engagement with the NMC from Mrs Spraggett and her attendance at a future NMC review hearing;
- A clear indication of Mrs Spraggett's future nursing intentions or a clear statement outlining any wish for her registration to expire;
- References or testimonials from Mrs Spraggett's current employer; and,
- Evidence of Mrs Spraggett keeping her nursing skills up-to-date by providing records of training undertaken between today and the date of the next NMC review hearing.

This will be confirmed to Mrs Spraggett in writing.

That concludes this determination.