

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

**Substantive Order Review Meeting
Wednesday 6 April 2022**

Virtual Meeting

Name of registrant: Adam William Truman

NMC PIN: 11A1225E

Part(s) of the register: Registered Nurse sub part 1
RNC Children's nurse level 1 (August 2011)

Area of registered address: West Midlands

Type of case: Lack of competence

Panel members: David Lancaster (Chair, Lay member)
Pamela Campbell (Registrant member)
Georgina Wilkinson (Lay member)

Legal Assessor: Douglas Hogg QC

Hearings Coordinator: Anya Sharma

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Strike off to come into effect on 24 May 2022
in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that Mr Truman was not in attendance and that the Notice of Meeting had been sent to Mr Truman's registered email address on 16 February 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, dates and venue of the meeting.

In the light of all of the information available, the panel was satisfied that Mr Truman 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 conditions of practice order with a striking off order.

This order will come into effect at the end of 24 May 2022 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 by a Conduct and Competence Committee on 25 April 2017 for 12 months. The first review hearing took place on 13 April 2018 and a Fitness to Practise panel replaced the suspension order with a conditions of practice order for a period of 12 months. On 3 May 2019, a reviewing panel extended the conditions of practice order for a period of 12 months. On 15 April 2020, the reviewing panel imposed a further conditions of practice order for a period of 12 months. On 8 April 2021, the conditions of practice order was confirmed and extended for a further period of 12 months.

The current order is due to expire at the end of 24 May 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, whilst employed at Birmingham Children’s Hospital, between December 2012 and October 2015, failed to demonstrate the standards of knowledge, skill and judgment required to practise without supervision as a band 5 staff nurse in that you:

1. Between December 2012 and August 2013 failed to successfully complete an informal capability action plan.

[Found proved]

2. While subject to a Stage 1 formal capability process Birmingham Children’s Hospital Trust you:

- 2.1 On 10 April 2014 failed to draw blood cultures as required from Patient A;

[Found proved]

- 2.2 On 10 April 2014 in relation to Patient B;

- 2.2.1 failed to communicate effectively with Patient B’s carer and

- 2.2.2 in relation to Patient B administered medication two hours later than it was due to be administered

[All found proved]

- 2.3 ...

[Found not proved]

- 2.4 On 15 April 2014 failed to carry out required bedside safety checks;

[Found proved]

2.5 On 24 April 2014 administered medication to Patient D 18 hours earlier than it was due to be administered;

[Found proved]

2.6 failed to successfully complete your Stage 1 Capability process.

[Found proved]

3. Whilst subject to a Stage 2 capability process at Birmingham Children's Hospital Trust you:

3.1 On 12 September 2014 did not display adequate techniques for observations taking and recording in that you:

3.1.1 did not landmark correctly when taking a radial pulse;

3.1.2 failed to check capillary refill on two out of his three patients;

3.1.3 incorrectly placed the blood pressure cuff on a 14-month-old child;

3.1.4 used a finger probe on the 14-month-old child's toe which did not pick up the oxygen saturations;

3.1.5 incorrectly counted respirations on the 14-month-old child.

[All found proved]

3.2 On 02 February 2015 in relation to Patient E:

3.2.1 did not demonstrate critical thinking skills;

3.2.2 failed to escalate the needs of a sick child and

3.2.3 failed to document events or interventions as required

[All found proved]

3.3 Made medication errors as follows:

3.3.1 On 19 February 2015 you omitted to administer antibiotics to Patient F

3.3.2 On 23 February 2015 you administered expired intravenous fluids to Patient G

[All found proved]

3.4 On 06 May 2015 in relation to Patient H you provided telephone advice when you knew you were prohibited from doing so.

[Found proved]

3.5 Between August 2014 and July 2015 failed to successfully complete your stage 2 capability process.

[Found proved]

AND in light of the above your fitness to practise is impaired by reason of your lack of competence.”

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

The panel considered whether Mr Truman’s fitness to practise remains impaired.

The panel noted that Mr Truman’s written submission dated 1 April 2021 in which he stated:

“Sorry for the late reply. As im sure you are aware Im currently working as an assistant practitioner in the community and have been especially busy as of late.

I dont have anything new for the panel other than what was said in previous meetings. My current situation is unchanged from the previous meeting. With the pandemic ongoing I haven’t pursued anything that was discussed previously and while I still have ambitions to return to nursing I have prioritised my current job position and workload this past year as opposed to retraining...”

The panel considered that Mr Truman has not shown any evidence of remediating his practice. The panel noted that it has been a challenging year with COVID-19 making it difficult for Mr Truman to fully remediate his practice. However, Mr Truman has not been able to comply with the current conditions of practice order. The panel determined that Mr Truman remains liable to repeat matters of the kind found proved as he has not demonstrated any evidence to show his intention to correct the deficiencies in his practice. The panel therefore decided that a finding of continuing impairment remains necessary on the grounds of public protection.

The panel had borne in mind that its primary function was 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. To do otherwise would seriously undermine the public's confidence in the NMC as a regulator.

For these reasons, the panel finds that Mr Truman's 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 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 Mr Truman's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Mr Truman's misconduct

was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 further conditions of practice order on Mr Truman'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 accepted that Mr Truman has been unable to comply with conditions of practice due to his current employment status but is engaging with the NMC and wants to return to nursing.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. In this case, the current conditions of practice would protect patients during the period they are in force.

The panel were disappointed that Mr Truman had made no progress with complying with the conditions of practice but recognised the challenging employment environment as a result of COVID-19. The panel noted that the conditions of practice have already been in force for three years without any evidence of compliance, this order cannot continue indefinitely. Therefore, the panel expects by the time of the next review that there is evidence from Mr Truman that he is actively seeking to comply with the conditions of practice order.

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 at this stage.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into

effect on the expiry of the current order, namely at the end of 24 May 2021. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

It decided to continue the following conditions which it considered are appropriate and proportionate in this case:

- 1. You must notify the NMC within 28 days of any nursing or midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer;*
- 2. 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 these conditions to the following:*
 - a. Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work.*
 - b. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing or midwifery services.*
 - c. Any prospective employer (at the time of application) where you are applying for any nursing or midwifery 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 such a course (at the time of application)*
- 3. 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.*
- 4.*
 - a. You must within 28 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 and contact details of the individual or organisation offering the post, employment or course of study.

b. You must within 28 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individuals/organisation with whom you have entered into the arrangement.

5. At any time that you are employed or otherwise providing nursing or midwifery services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of:

a. Working at all times on the same shift as but not necessarily under the direct observation of a registered nurse of band 6 or above who is physically present in or on the same ward, unit, floor or home that you are working in or on.

6. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:

- a. Administering medication;*
- b. Taking and recording observations;*
- c. Record keeping; and*
- d. Escalating concerns.*

7. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 7 days to discuss the standards of your performance and your progress towards achieving the aims set out in your personal development plan.

8. *You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
9. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before any NMC review hearing or meeting.*
10. *You must allow the NMC to exchange, as a necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan 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*
11. *You must not carry out medication administration unless directly supervised by a band 6 registered nurse until such time as you have completed a medications management assessment in line with your employer policy.*

Decision and reasons on current impairment

This panel has considered carefully whether Mr Truman'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. No new documentation had been received from Mr Truman.

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 Mr Truman's fitness to practise remains impaired.

The panel had sight of the decision of the last reviewing panel, and concluded that position remains the same, given that there has been no material change in the circumstances of the case since the order was last reviewed. There is no information before the panel to suggest that Mr Truman has engaged with the NMC since 1 April 2021. The panel noted that Mr Truman had not practised as a registered nurse for over five years and that his skills and competence as a nurse will have deteriorated in this time.

The panel considered that Mr Truman had not provided the NMC with any evidence of him remediating his practice or complying with his current conditions of practice order since the last review despite being encouraged to do so. The panel determined that Mr Truman remains liable to repeat matters of the kind found proved as he has not provided any evidence to demonstrate a material change in the circumstances of his case. 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 Mr Truman's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Truman'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 Mr Truman's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Truman'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 issues identified. 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 order on Mr Truman'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 the decisions of past reviewing panels and was of the view that Mr Truman had been provided with ample opportunity to engage with his conditions of practice order over the past four years, and has not done so. The panel further considered that the last reviewing panel noted that it had expected Mr Truman to have provided evidence that he is actively seeking to comply with the conditions of practice order by the time of this review.

In view of Mr Truman's lack of engagement with his conditions of practice order, the panel considered that any conditions of practice order would no longer be workable, appropriate or proportionate, and would therefore serve no useful purpose.

The panel next considered imposing a suspension order. The panel noted that Mr Truman had been given a conditions of practice order by previous reviewing panels for the past four years, and there is no evidence of him making efforts to engage with the order. In these circumstances the panel determined that a suspension order would not serve any useful purpose as the public interest had already been marked by a period of suspension following the substantive hearing in 2017.

The panel determined that it was necessary to take action to prevent Mr Truman from practising in the future and concluded that the only sanction that would adequately manage the risk, protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mr Truman's name off the register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the 24 May 2022 in accordance with Article 30(1).

This will be confirmed to Mr Truman in writing.

That concludes this determination.