

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

**Substantive Order Review Meeting
Tuesday, 13 December 2022**

Virtual Meeting

Name of Registrant: **Matthew Quinn**

NMC PIN 08H1809E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nurse – September 2008

Relevant Location: London

Type of case: Misconduct

Panel members: Birju Kotecha (Chair, Lay member)
Kathryn Smith (Registrant member)
Michael Glickman (Lay member)

Legal Assessor: Oliver Wise

Hearings Coordinator: Nandita Khan Nitol

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (2 years) to come into effect at the end of 18 January 2023 in accordance with Article 30(1) of the order.**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mr Quinn's registered email address by secure email on 7 October 2022.

The panel also noted that the Notice of Meeting had been sent to Mr Quinn's representative on 7 October 2022.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, and the fact that this was to be a virtual meeting on or after 5 December 2022.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Quinn had 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 current order

The panel decided to impose a further conditions of practice order for a period of 2 years. This order will come into effect at the end of 18 January 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of twelve months by a Fitness to Practise Committee panel on 18 December 2020. This order was reviewed on 20 December 2021 where the panel decided to confirm the conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 18 January 2023. 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:

- 1) *Between 23 and 25 February 2018 failed to communicate appropriately in that you:*
 - a) *Shouted at colleagues from the London Ambulance Service and stated 'These bloody LAS crews' or words to that effect.*
 - b) *Shouted at a distressed member of a patient's family 'get out' or words to that effect.*
 - c) *Complained loudly about a distressed member of a patient's family.*
 - d) *Stated to a junior colleague on the telephone 'I can't understand a word you are saying' or words to that effect before hanging up.*
 - e) *Failed to attend a multi-disciplinary hand over from the day shift without good reason.*
 - f) *Unnecessarily demanded Colleague B return early from her break to carry out a patient transfer.*
- 2) *On 16 April 2018 failed to communicate appropriately in that you interrupted Colleague C, failed to listen or act upon advice when he was explaining elements of your role during a supernumerary shift.*

- 3) *On 11 August 2018 used inappropriate restraint and treatment on Patient A in that you;*
- a) *Restrained Patient A in a wheelchair by tying a sheet around him.*
 - b) *Placed a commode/bed pan liner under Patient A's neck.*
 - c) *Placed a clinical waste bag over Patient A's head.*

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

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

'The panel considered whether Mr Quinn's fitness to practise remains impaired.

The panel noted the email from Mr Quinn's representative, dated 4 August 2021 which states:

'[Mr Quinn] has been [PRIVATE] since before the last hearing, and has not worked anywhere, nursing or otherwise.

Am I correct in thinking the conditions of practice will be continued if we ask to go ahead with no meeting/hearing?

We don't object to it being continued, as obviously Matthew can't demonstrate having complied.

[PRIVATE] he will start taking steps towards looking for nursing roles again, but I don't expect he will be well enough to work anywhere for quite some time.

I apologise but he is also not [PRIVATE] enough to provide a reflection.'

The panel noted that, other than this update, it had no information before it to demonstrate that there was any material change in circumstances since the last hearing. The panel therefore determined that, for the same reasons as the original panel, Mr Quinn's practice 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. 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 Quinn's fitness to practise remains impaired.

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

'Having found Mr Quinn'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 Quinn'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 Quinn'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 Quinn'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 Quinn has been unable to comply with conditions of practice [PRIVATE] and is currently engaging with the NMC and is willing to comply with any conditions imposed.

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, there are conditions which 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 disproportionate and would not be a reasonable response in the circumstances of Mr Quinn's case. Mr Quinn is engaging with this process to the best of his ability in the circumstances, he has recognised that he acted inappropriately, he has provided evidence of developing insight and has stated that he would like to return to nursing at his first hearing.

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 18 January 2022. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

- 1. You must work with your line manager to create a personal development plan ("PDP"). Your PDP must address the following concerns:*

- a) *Developing communication skills; and*
 - b) *Appropriate use of restraint*
2. *You must ensure that you are supervised by another registered nurse at any time you are working until you have been signed off by your line manager as competent to do so without such supervision. Your supervision must consist of:*
- a) *Working at all times on the same shift as, but not always directly observed by, a registered nurse of equal or senior band to yours.*
 - b) *Fortnightly meetings with your line manager to discuss your general performance, as well as your progress towards achieving the aims set out in your PDP.*
3. *You must send your case officer a report from your line manager, setting out the standard of your general performance, as well as your progress towards achieving the aims set out in your PDP, prior to any NMC review hearing or meeting.*
4. *[PRIVATE].*
5. *You must keep us informed about anywhere you are working by:*
- a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
6. *You must keep us informed about anywhere you are studying by:*
- a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
7. *You must immediately give a copy of these conditions to:*
- a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*

- c) *Any employers you apply to for work (at the time of application).*
- d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
- e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*

8. *You must tell your case officer, within seven days of your becoming aware of:*

- a) *Any clinical incident you are involved in.*
- b) *Any investigation started against you.*
- c) *Any disciplinary proceedings taken against you.*

9. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*

- a) *Any current or future employer.*
- b) *Any educational establishment.*
- c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

The period of this order is for a period of 12 months, this is to allow Mr Quinn to find employment and comply with the conditions.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 January 2022 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review to see how well Mr Quinn has complied with the order. At the review the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- *Mr Quinn's continued engagement with the NMC.*
- *A reflective piece in a recognised format such as Gibbs' Reflective Cycle that demonstrates further insight and understanding of his misconduct, specifically in the areas of communication and inappropriate restraint.*
- *Any evidence of Mr Quinn having kept his nursing skills up to date.*
- *Any references or testimonials from paid or unpaid work.'*

Decision and reasons on current impairment

The current panel has considered carefully whether Mr Quinn'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 the email response from Mr Quinn's representative, dated 28 July 2022.

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 Mr Quinn's fitness to practise remains impaired.

The panel noted the email from Mr Quinn's representative, dated 28 July 2022, which states:

[PRIVATE]

He is mindful that due to this he has not kept his nursing skills up to date, is there anywhere he can contact to look into how to get back into nursing and refresh his skills after such a gap?

Matthew is happy for proceedings at this stage to be conducted as a meeting, as he does not have any further info/documents to submit at present.

I am still assisting Matthew with the case ongoing and I'm happy to receive and pass on any correspondence. If you need any further information please let me know.'

The panel did not have any material evidencing Mr Quinn's compliance with the conditions of practice order. However, the panel acknowledged Mr Quinn's [PRIVATE]. The panel noted the email of 28 July 2022 which referred to Mr Quinn [PRIVATE] .

The panel noted that, other than this update, it had no information before it to demonstrate that there was any material change in circumstances since the last hearing. The panel therefore determined that, for the same reasons as the original panel, Mr Quinn's practice 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. 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 Quinn's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mr Quinn'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 Quinn'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 Quinn'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 Quinn'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 Quinn has been unable to comply with the existing conditions of practice [PRIVATE] but has been engaging with the NMC and his representative has indicated his willingness to comply with any conditions imposed.

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, there are conditions 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 disproportionate and would not be a reasonable response in the circumstances of Mr Quinn's case. Mr Quinn is engaging with this process to the best of his ability in the

circumstances, he has recognised that he acted inappropriately, he has previously provided evidence of developing insight and stated at his first hearing that he would like to return to nursing.

Accordingly, the panel determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of 2 years, which will come into effect on the expiry of the current order, namely at the end of 18 January 2023. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must work with your line manager to create a personal development plan (“PDP”). Your PDP must address the following concerns:
 - a. Developing communication skills; and
 - b. Appropriate use of restraint

2. You must ensure that you are supervised by another registered nurse at any time you are working until you have been signed off by your line manager as competent to do so without such supervision. Your supervision must consist of:
 - a. Working at all times on the same shift as, but not always directly observed by, a registered nurse of equal or senior band to yours.
 - b. Fortnightly meetings with your line manager to discuss your general performance, as well as your progress towards achieving the aims set out in your PDP.

3. You must send your case officer a report from your line manager, setting out the standard of your general performance, as well as your progress towards achieving the aims set out in your PDP, prior to any NMC review hearing or meeting.

4. [PRIVATE]

5. You must keep us informed about anywhere you are working by:

- a. Telling your case officer within seven days of accepting or leaving any employment.
- b. Giving your case officer your employer's contact details.

6. You must keep us informed about anywhere you are studying by:

- a. Telling your case officer within seven days of accepting any course of study.
- b. Giving your case officer the name and contact details of the organisation offering that course of study.

7. You must immediately give a copy of these conditions to:

- a. Any organisation or person you work for.
- b. Any agency you apply to or are registered with for work.
- c. Any employers you apply to for work (at the time of application).
- d. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
- e. Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity

8. You must tell your case officer, within seven days of your becoming aware of:

- a. Any clinical incident you are involved in.
- b. Any investigation started against you.

- c. Any disciplinary proceedings taken against you.
9. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
- a. Any current or future employer.
 - b. Any educational establishment.
 - c. Any other person(s) involved in your retraining and/or supervision required by these conditions.

The period of this order is for a period of 2 years. This is not an indication that this panel views the case as more serious than previous panels, but is intended to allow Mr Quinn time to potentially undertake a return to practice course or other appropriate training, obtain employment, and demonstrate compliance with the conditions. The panel reminds Mr Quinn that he may request an early review at any stage should his circumstances materially change.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 January 2023, in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review to see to what extent Mr Quinn has complied with the order. At the review the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mr Quinn's continued engagement with the NMC.
- A reflective piece in a recognised format such as Gibbs' Reflective Cycle that demonstrates further insight and understanding of his misconduct, specifically in the areas of communication and inappropriate restraint.
- Any evidence of Mr Quinn having kept his nursing skills and knowledge up to date and/or any evidence of relevant training.

- Any references or testimonials from paid or unpaid work.

This will be confirmed to Mr Quinn in writing.

That concludes this determination.