

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

**Substantive Order Review Hearing
Tuesday 7 June 2022**

Virtual Hearing

Name of registrant:	Qingli Maynard
NMC PIN:	16G1604E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – May 2017
Relevant Location:	Kent
Type of case:	Misconduct
Panel members:	Philip Sayce (Chair, Registrant member) Emily Davies (Registrant member) Clare Taggart (Lay member)
Legal Assessor:	Martin Goudie QC
Hearings Coordinator:	Charis Benefo
Nursing and Midwifery Council:	Represented by Vanessa Reid, Case Presenter
Mrs Maynard:	Not present and unrepresented at the hearing
Order being reviewed:	Conditions of practice order (18 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (6 months) to come into effect at the end of 16 July 2022 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Maynard was not in attendance and that the Notice of Hearing had been sent to Mrs Maynard's registered email address on 28 April 2022.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Maynard's previous representative on 28 April 2022.

Ms Reid, 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.

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

In the light of all of the information available, the panel was satisfied that Mrs Maynard 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 Maynard

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

Ms Reid informed the panel that there was no response from Mrs Maynard or her previous representative following service of Notice on 28 April 2022. She told the panel that on 6 June 2022, the Hearings Co-ordinator made an additional attempt to contact Mrs Maynard and her previous representative about their attendance at this hearing.

Mrs Maynard's previous representative stated in an email response dated 6 June 2022 that he would check with Mrs Maynard to see if she would like to be represented. He also indicated that he was not aware of the hearing.

Ms Reid told the panel that in an email dated 7 June 2022, Mrs Maynard's previous representative confirmed that he had not received a response from Mrs Maynard and so they would not be able to represent her at the hearing. He indicated that they are no longer in touch with Mrs Maynard. Ms Reid said that the Hearings Co-ordinator also attempted to call Mrs Maynard, but that there was no answer.

Ms Reid submitted that there had been no engagement at all by Mrs Maynard with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

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

- No application for an adjournment has been made by Mrs Maynard;
- Mrs Maynard has not engaged with the NMC and has not responded to any of the correspondence sent to her about this hearing;
- 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 Maynard.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a suspension order for a period of six months.

This order will come into effect at the end of 16 July 2022 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 12 months by a Fitness to Practise Committee panel on 18 December 2019. This was reviewed on 9 December 2020 when a further substantive conditions of practice order was imposed for a period of 18 months.

The current order is due to expire at the end of 16 July 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:

1. On 14 August 2017:

a. Failed to complete, or alternatively failed to adequately complete, the relevant paperwork for Patient A, who was heading into theatre.

b. Failed, in relation to a stoma patient, Patient B:

i. To complete any, or alternatively any adequate, checks on the patient after becoming aware of the patient's condition and/or;

ii. To report and / or escalate the patient's condition at 1(b)(i) in a timely manner.

2. ...

3. *On 23 October 2017, you administered Clexane to Patient D without a valid prescription.*

4. ...'

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

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

'The panel considered whether Mrs Maynard's fitness to practise remains impaired.

The panel had regard to the information before it. It noted Mrs Maynard's email of 18 March 2020, in which she informed the NMC of steps she was taking to revalidate, and of a personal and professional plan she had created. Since that email was sent, there was no further information or contact from Mrs Maynard. There were no details of such a personal and professional plan, nor any information about whether Mrs Maynard had taken up employment as a registered nurse, subject to the current conditions of practice order. Whilst there was no evidence to suggest there had been a breach of the current conditions of practice order, the panel had no information to suggest that Mrs Maynard had been able to work towards fulfilling them. The panel had no information to suggest that the concerns identified by the original substantive hearing panel had been addressed. The panel had regard to Mrs Maynard's limited engagement, and it considered that she had not provided evidence to show that she had addressed the recommendations made by the previous panel. It noted that a concern of that panel was Mrs Maynard's limited insight, and there was no evidence before this panel to suggest that her insight had developed since the original substantive hearing.

In light of the limited information from Mrs Maynard, the panel had no evidence to suggest that her failings had been remediated, and it considered that a risk remains

to patients should she be able to practise without restriction. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore 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. Having regard to the lack of evidence to suggest that Mrs Maynard's clinical failings had been remediated, the panel also determined that a finding of impairment remains necessary on public interest grounds, to maintain confidence in the nursing profession and in the NMC as a regulator, and to uphold proper professional standards.

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

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

'Having found Mrs Maynard'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 also took into account the NMC's Sanctions Guidance ("SG") and bore 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 remaining risk identified. Taking no action would not restrict Mrs Maynard's practice. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.

The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the remaining risk identified. Imposing a caution order would also not restrict Mrs Maynard's practice. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.

The panel next considered the imposition of a further conditions of practice order. The panel was mindful that any conditions imposed must be measurable, workable and practicable. The panel had regard to the original misconduct in this case and it considered that this remained capable of remediation. It considered that the current conditions remain measurable, workable and practicable, and that they would continue to address the specific clinical issues in this case.

The panel considered whether to impose a suspension order. The panel had regard to Mrs Maynard's limited engagement, and it noted the duty upon her to engage with these proceedings, to satisfy any recommendations made and to demonstrate evidence of satisfying the conditions of practice order. Whilst it was the case that Mrs Maynard had not provided the panel with any such evidence, the panel also had no evidence to suggest that she had breached the current conditions of practice order. The panel considered that Mrs Maynard's clinical failings remained capable of remediation by way of a conditions of practice order, and that she should be given further opportunity to address the issues in this case in such a manner. For these reasons, the panel determined that a suspension order would be disproportionate at this time.

The panel was satisfied that a conditions of practice order is appropriate and proportionate in the circumstances of this case. It considered that the current conditions remain measurable, workable and practicable, and that those conditions would continue to protect the public and satisfy the public interest.

The panel determined to extend the current conditions of practice order for a period of 18 months. It considered that this would give Mrs Maynard sufficient opportunity to obtain employment subject to the conditions, and to work towards addressing them, in order to remediate her clinical failings. The panel also considered that this would provide Mrs Maynard with time to address recommendations set out below, including developing her insight, and providing information about what she has been doing to remediate her clinical practice. If Mrs Maynard has been able to satisfy the conditions prior to the expiry of the 18 month period, she has the option of requesting an early review of the order.

In accordance with Article 30(1)(c) of the Order the panel therefore decided to extend the current conditions of practice order as follows:

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 ensure that you are supervised at any time you are working. 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 band 5 or above (or equivalent).
 - b) Weekly meetings to discuss your clinical performance with your work-based supervisor or mentor who will be another registered nurse. This does not have to be your manager who takes responsibility for your Personal Development Plan, as specified in condition 3.

2. You must not administer medicines unless directly supervised by another registered nurse until you have been assessed and signed off as competent.

3. You must work with a registered nurse of band 6 or above (or equivalent), to create a personal development plan (PDP). Your PDP must address (i) medicines administration and (ii) identification and escalation of a deteriorating patient. You must:
 - a) Send your case officer a copy of your PDP at least 14 days before any NMC review hearing or meeting.
 - b) Meet with a registered nurse of band 6 or above at least once a month to discuss your progress towards achieving the aims set out in your PDP.
 - c) Send your case officer a progress report from a registered nurse of band 6 or above at least 14 days before any NMC review hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.

4. You must keep a reflective practice profile. The profile will:

- a) *Detail examples of (i) where you have undertaken or assisted with medicines administration and (ii) where you have identified deteriorating patients and escalated them appropriately.*
- b) *Set out the nature of the care given.*
- c) *Be discussed with and signed by a registered nurse of band 6 or above.*

You must send your case officer a copy of these reflections at least 14 days before any NMC review hearing or meeting.

- 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 undertaking full or part-time study 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 where you are undertaking a course of full or part-time study.*
- c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

This conditions of practice order will come into effect upon the expiry of the current conditions of practice order, namely at the end of 16 January 2020.

Prior to its expiry this order will be reviewed by another panel. That panel may revoke the order, allow the order to lapse upon expiry, extend the order or replace the order with another order.

A future reviewing panel may be assisted by evidence of the following:

- *Mrs Maynard's engagement with the NMC and her attendance at the review hearing;*
- *Progress and compliance with the conditions of practice order;*
- *A reflective piece written by Mrs Maynard addressing the original misconduct found proved at the substantive hearing in December 2019, including its impact on patients, colleagues and on the nursing profession and what she has learnt since;*
- *Up to date references or testimonials from any employment Mrs Maynard has undertaken, whether paid or unpaid, since the original substantive hearing in December 2019.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Maynard'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 Reid on behalf of the NMC. She provided a background to the case and referred the panel to the decision and reasons of the previous panels on 18 December 2019 and 9 December 2020.

Ms Reid submitted that there is very little information on Mrs Maynard's current position since the last review hearing on 9 December 2020. She said that the original panel considered her insight limited and that there was limited evidence of strengthened practice. Ms Reid reminded the panel that there has been no engagement from Mrs Maynard.

Ms Reid submitted that Mrs Maynard's fitness to practise remains impaired on public protection and public interest grounds because there is no evidence to suggest that she has improved her insight, addressed the concerns identified, strengthened her practice or complied with the substantive conditions of practice order.

Ms Reid submitted that it is a matter for the panel to decide what sanction may be appropriate if it finds that Mrs Maynard's fitness to practise is still impaired. She submitted that the panel could impose a further conditions of practice order. Alternatively, she submitted that the panel may find that a suspension order is the appropriate sanction if it finds the conditions of practice are not serving any useful purpose, considering Mrs Maynard's lack of engagement.

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 Mrs Maynard's fitness to practise remains impaired.

The panel noted that Mrs Maynard had not provided evidence at the last review hearing to suggest that her insight had developed since the original substantive hearing, where it was found that her insight was limited. At this hearing, the panel considered the lack of engagement from Mrs Maynard and it noted that there was no new information to indicate that her insight has developed, that the concerns identified have been addressed or that she has taken steps to strengthen her practice. The panel had no information to indicate whether Mrs Maynard has complied with the conditions of practice order.

In light of the lack of information from Mrs Maynard, this panel determined that there is a high risk that she will 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 Maynard's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Maynard'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 Maynard'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 Mrs Maynard'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 conditions of practice order on Mrs Maynard'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 noted from the decision and reasons of the previous panel on 9 December 2020 that there was some reference to engagement from Mrs Maynard. In Mrs Maynard's email dated 18 March 2020, she informed the NMC of steps she was taking to revalidate, and of a personal and professional plan she had created. However, the panel noted that since this email, there has been no further information or contact from Mrs Maynard.

The panel next considered the continuation of the current conditions of practice order. The panel was concerned by Mrs Maynard's lack of engagement with the NMC. The panel

noted that there is no information before it to indicate that Mrs Maynard has been practising and complying with the conditions of practice order. There is also no information to suggest that Mrs Maynard has addressed the concerns identified with her practice.

The panel considered that in order for a conditions of practice order to be appropriate and workable, it was necessary for the registrant to engage with the conditions. There is an expectation on registrants to engage with their regulator. The panel was not satisfied that this has occurred in Mrs Maynard's case. The panel determined that a further conditions of practice order would serve no useful purpose.

On this basis, the panel concluded that a conditions of practice order is no longer the appropriate order in this case. 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 determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined that imposing a suspension order for the period of six months would provide Mrs Maynard with an opportunity to engage with the NMC and indicate her intentions on her future nursing practice. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 16 July 2022 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:

- Mrs Maynard's engagement with the NMC and her attendance at the review hearing; and
- An update on Mrs Maynard's intentions on whether she wishes to remain on the NMC register.

This will be confirmed to Mrs Maynard in writing.

That concludes this determination.