

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

**Substantive Order Review Hearing
Wednesday 30 March 2022**

Virtual Hearing

Name of registrant: Gillian Hood

NMC PIN: 14A1235E

Part(s) of the register: Registered Nurse – RNMH
Mental Health Nursing – April 2014

Area of registered address: Tyne and Wear

Type of case: Misconduct

Panel members: Louise Fox (Chair, Lay member)
Susan Jones (Registrant member)
Brian Stevenson (Lay member)

Legal Assessor: Richard Ferry-Swainson

Hearings Coordinator: Khadija Patwary

Nursing and Midwifery Council: Represented by Alastair Kennedy, Case
Presenter

Miss Hood: Present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months) to
come into effect at the end of 8 May 2022 in
accordance with Article 30(1)**

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 8 May 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 8 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. *On or around 18 February 2017 shouted at Service User 2 **[PROVED]***
2. *On or around 23 September 2017 in relation to Patient 1:*
 - a. *Said "you will pick it up" or words to that effect; **[PROVED]***
 - b. *Took items from the sink and banged them down on the bench; **[PROVED]***
 - c. *Snatched items from Patient 1; **[PROVED]***
 - d. *...**[NOT PROVED]***

- e. Stopped Patient 1 from leaving the area by:
 - i. holding her arm; **[PROVED]**
 - ii. standing in her way; **[PROVED]**
- f. Said to other patients “see, she [Patient 1] is only doing this due to her mum not ringing,” or words to that effect. **[PROVED]**

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

The original panel determined the following with regard to impairment:

‘The panel next went on to decide if as a result of the misconduct, Miss Hood’s fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public

confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession;*
- d) [...]*

The panel determined that the first three limbs of the Grant test to be engaged in this case, both in the past and in the future.

The panel found that Patient 1 and Service User 2 were put at risk of harm and were caused emotional distress and harm as a result of Miss Hood's misconduct. The panel considered that the patients involved in these incidents were alarmed and distressed by Miss Hood's conduct as were the patients who observed Miss

Hood's behaviour in these incidents. The panel was of the view that there is a high risk of harm to patients if this conduct is repeated in Miss Hood's nursing practice.

The panel were of the view Miss Hood's misconduct had brought the reputation of the nursing profession into disrepute. It noted that Miss Hood's conduct fell seriously below the standard expected of a nurse and the panel determined that Miss Hood abused the trust which her patients placed in her. The panel also concluded that any repetition of this conduct would further damage the reputation of the profession in the future.

The panel were of the view that nurses are expected to be kind, caring and compassionate in the care of their patients. It noted that nurses should treat people with dignity and respect. The panel considered that Miss Hood demonstrated an inability to meet these standards and failed to demonstrate the fundamental tenet of therapeutic and effective communication with these patients in order to respond to their needs.

Regarding insight, the panel considered the oral evidence of Witness 2 who stated, "I never felt that Gill demonstrated empathy or remorse with that specific patient". The panel were of the view that Miss Hood has demonstrated very limited insight locally where she admitted that her behaviour was not appropriate when challenged by her supervisor. It determined that Miss Hood struggled to comprehend the needs of Patient 1 and Service User 2 or demonstrate any empathy toward them. The panel considered that Miss Hood has not demonstrated an understanding of how her actions impacted Patient 1 and Service User 2, or those who observed her actions. The panel noted that Miss Hood has not demonstrated an understanding of why her conduct was wrong and how this has impacted negatively on the reputation of the nursing profession. The panel considered the oral evidence of Witness 1 and Witness 3 who stated that Miss Hood did not apologise to the patients involved in these incidents for her misconduct. The panel also considered that it did not have any information of how Miss Hood would handle the situation differently in the future.

The panel was satisfied that the misconduct in this case is capable of remediation. However, the panel had no evidence before it to determine whether or not Miss Hood has remedied her practice. The panel took into account that Miss Hood had not successfully completed her personal development plan whilst employed at the Trust and has not worked as a nurse for a number of years. It noted that Miss Hood has not provided an explanation for her conduct in relation to these incidents. The panel were of the view that Miss Hood could have provided a reflective piece to provide context of what happened and she could have attended relevant courses which include developing communication skills, conflict resolution and stress management.

The panel is of the view that there is a risk of repetition. This risk is compounded by the evidence that performance management interventions by the Trust on Miss Hood's nursing practise had been unsuccessful so far in preventing these incidents. The panel took into consideration Miss Hood's lack of insight and her overall failure to improve her nursing practise through the completion of her personal development plan and ongoing preceptorship status. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel determined that a finding of impairment on public interest grounds is required because Miss Hood's conduct caused harm to vulnerable patients and an informed member of the public would be concerned to learn that a nurse was unable to provide care for patients without causing emotional distress or harm whilst in their care.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Hood's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Hood's fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'Having found Miss Hood's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.'

The panel took into account the following aggravating features:

- *Misconduct related to vulnerable patients*
- *Patients caused distress*
- *Continued lack of insight*
- *Repeated behaviours despite supported interventions*
- *No evidence of remediation*
- *Previous disciplinary history*

The panel were unable to identify any mitigating features.

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 and this would be insufficient to protect the public.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, the risk of repetition and the public protection issues

identified, an order that does not restrict Miss Hood'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 Miss Hood'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 and this would be insufficient to protect the public.

The panel next considered whether placing conditions of practice on Miss Hood'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 took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel is of the view that there could be practical or workable conditions that could be formulated, given the nature of the charges in this case. However, the panel determined that it had no information from Miss Hood of her current employment status and whether she would engage with any conditions imposed. The panel concluded that there are currently no workable conditions which could be formulated to allow Miss Hood to continue her nursing practise.

Furthermore, the panel concluded that the placing of conditions on Miss Hood's registration in the current circumstances would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*

It did go on to consider whether a striking-off order would be proportionate. The panel took note of the following paragraphs of the SG:

- Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel considered that whilst Miss Hood's conduct did raise questions about her professionalism, public confidence could be maintained by temporarily removing Miss Hood from the register. It noted that Miss Hood's conduct with patients had not escalated during her care of them and it was satisfied that a striking off order was not the only sanction which would protect patients, members of the public, and maintain professional standards. The panel took account of all the information before it and concluded that imposing a striking off order would be disproportionate.

The panel took into consideration that although Miss Hood's conduct was not limited to a single event, her conduct was of a similar nature in both incidents. The panel concluded that Miss Hood's misconduct demonstrates an area of poor practice but that there was no evidence of harmful and deep-seated attitudinal concerns. The panel was satisfied that in this case, the misconduct found proved was not fundamentally incompatible with remaining on the register and determined that a suspension order would mark the seriousness of Miss Hood's misconduct. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Hood's case to impose a striking-off order. Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction to protect the public and meet the public interest.

The panel noted the hardship such an order will inevitably cause Miss Hood. However this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

The panel determined that a suspension order for a period of 6 months was appropriate in this case to mark the seriousness of the misconduct. The panel considered that this would provide Miss Hood with sufficient time to reflect on whether she will engage with the NMC to provide insight and remediation in relation to her misconduct.

At 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:

- *Miss Hood's attendance at any future review hearing;*
- *A written reflective piece demonstrating Miss Hood's insight into the misconduct found proved and the impact that it had on patients, the wider profession and the public;*
- *Evidence of any training undertaken in the areas of communications skills, conflict resolution and stress management;*
- *Information on Miss Hood's current employment situation and any future plans regarding a return to nursing; and*
- *Any references or testimonials from any paid or voluntary work that you complete.'*

Decision and reasons on current impairment

This panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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, proof of posting bundle and the on-table bundle. It has taken account of the submissions made by Mr Kennedy on behalf of the NMC and submissions from you. Mr Kennedy provided the panel with the background facts of the case and directed it to the relevant pages in the NMC bundles. He also directed the panel to the decision of the original substantive panel.

Mr Kennedy submitted that you have not provided a reflective piece, nor have you undertaken training courses. He referred the panel to your character reference, but he submitted that it wasn't clear whether the author of that character reference knew about the charges or the situation that you find yourself in. Mr Kennedy submitted that the persuasive burden is on you as you have to demonstrate that you have developed insight

into the concerns identified and whether it is unlikely that you will repeat the type of behaviour in the future.

Mr Kennedy submitted that your fitness to practice remains impaired on the grounds of public protection and it is a matter for the panel to consider whether the risk of repetition has reduced. He submitted that the panel could consider a conditions of practice order and conditions may include a Personal Development Plan (PDP) dealing with your communication skills, conflict resolution and stress management. Conditions of practice can also include meeting with a line manager on a regular basis and for a report to be submitted before a reviewing panel.

You submitted that you went into nursing at the age of 23 and have been working for almost 20 years in the care profession. You said that you worked hard to get the necessary qualifications to be accepted at university. You said that you finally qualified in 2014 and it was the best day ever. You said that you have the deepest regrets and sincerely apologise for your misconduct. The behaviour was uncalled for and totally unacceptable. You said that you have yet to find a job that you are happy with since not been able to practice as a nurse. You stated that nursing is your passion, and you would love nothing more than to get back into a nursing role.

You said that you are truly sorry for the hurt and pain you caused to those who were involved, and these matters shouldn't have occurred just because you were having a bad day. You said that if you were able to apologise in person for your misconduct then you would do so, but you would like to sincerely say that you will promise your misconduct will not happen again in any future nursing jobs. You said that you were looking for communication skill courses. You said you were unable to find any but maybe you didn't look hard enough.

You said that you are currently working in a retail fulfilment centre which is a highly stressful environment. You told the panel that there are a lot of staff working there and since working there your communication skills have improved as you are communicating with other individuals throughout your shift. You said that you have gained the confidence to approach your manager to talk about certain issues that may arise. You said that if you

were to find yourself in a similar position you would take the patient to one side and take it at a slow pace instead of doing it all at once and confusing the patient. You said that you aim to get back into nursing and secure a nursing role. You thought that it was the end of your nursing career and are more than willing to do anything to get back to nursing.

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 your fitness to practise remains impaired.

The panel acknowledged your character reference from your line manager at the retail fulfilment centre and that you have engaged with today's proceedings. However, the panel was of the view that there remains a risk of repetition as you have not demonstrated any evidence of strengthening your practice or sufficient insight into what went wrong with your practice. It noted that you stated that you wish to return to nursing and that you are remorseful in relation to your misconduct, but you had not reflected fully on what caused the misconduct, how you could assure the panel it would not be repeated in a nursing environment, and the impact your misconduct had on psychologically vulnerable patients, on your colleagues and on the public's confidence in the nursing profession. It determined that your insight is developing but is not sufficient to reduce the risk of repetition and therefore a finding of current impairment is necessary on 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 the seriousness of your misconduct has already been addressed by the six months suspension order and a finding of continued impairment on public interest grounds is no longer required.

For these reasons, the panel finds that your fitness to practise remains impaired on public protection grounds alone.

Decision and reasons on sanction

Having found your 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 your practice would not be appropriate in the circumstances.

The panel considered substituting the current suspension order with a conditions of practice order. Despite the seriousness of your misconduct, there has been evidence produced to show that you demonstrated remorse and have developed limited insight into your failings. You indicated that you wish to return to nursing and would comply with any conditions of practice.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice and would serve to protect the public.

The panel decided that the public would be suitably protected by the implementation of the following conditions of practice:

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 keep the NMC informed about anywhere you are working by:

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

2. You must keep the NMC informed about anywhere you are studying by:

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

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

- Any organisation or person you work for.
- Any employers you apply to for work (at the time of application).
- Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

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

- Any clinical incident you are involved in.
- Any investigation started against you.
- Any disciplinary proceedings taken against you.

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

6. You must limit your nursing practice to a single employer that must not be an agency.

7. You must ensure that you are supervised any time you are working as a nurse. Your supervision must consist of working at all times on the same shift and in the same unit, but not always directly observed by, a registered nurse.

8. You must work with your line manager/supervisor/mentor to create a personal development plan (PDP). Your PDP must address the concerns about your communication skills, conflict resolution and stress management. You must:
 - Send your case officer a copy of your PDP within two weeks of commencing nursing employment.
 - Meet with your supervisor at least monthly to discuss your progress towards achieving the aims set out in your PDP.
 - Provide evidence that you have undertaken training in communication skills, conflict resolution and stress management and demonstrate how you have reflected on these and how they have been incorporated in your nursing practice.
 - Send your case officer a report from your supervisor every six months. This report must show your progress towards achieving the aims set out in your PDP.

9. You must provide a reflective piece 28 days before the review of this order for the panel demonstrating your insight into the misconduct found proved and the impact that it had on patients, the wider profession and the public.

The period of this order is for 18 months. The panel determined that 18 months would allow you to gain employment as a registered nurse and thereafter to demonstrate that you are capable of safe and effective practice.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 8 May 2022 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing 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.

This will be confirmed to you in writing.

That concludes this determination.