

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

**Substantive Order Review Hearing
Monday, 12 February 2024**

Virtual Hearing

Name of Registrant: Craig John Stephen

NMC PIN 88A1349E

Part(s) of the register: RHV: Specialist Practitioner (Public Health Nursing – Health Visiting) – 29 September 2004
V100: Community Practitioner Nurse Prescriber – 29 September 2004
RN8: Children’s Nursing (Level 1) – 28 September 1993
RN1: General Nursing (Level 1) – 5 March 1991

Relevant Location: Leicestershire

Type of case: Misconduct

Panel members: Peter Wrench (Chair, Lay member)
Mary Karasu (Registrant member)
David Anderson (Lay member)

Legal Assessor: Marian Killen

Hearings Coordinator: Yewande Oluwalana

Nursing and Midwifery Council: Represented by Tom Hoskins, Case Presenter

Mr Stephen: Not present and not represented at the hearing

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

Fitness to practise: Impaired

Outcome: **Extension (two years) of current conditions of practice order to come into effect at the end of 16 February 2024 in accordance with Article 30 (1).**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Mr Hoskins on behalf of the Nursing and Midwifery Council (NMC) made an application that parts of this hearing should be held in private on the basis that proper exploration of Mr Stephen's case [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session whenever matters relating to Mr Stephen's [PRIVATE].

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Stephen was not in attendance and that the Notice of Hearing had been sent to Mr Stephen's registered email address by secure email on 12 January 2024.

Mr Hoskins, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of 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 that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Stephen's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Stephen 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 Mr Stephen

The panel next considered whether it should proceed in the absence of Mr Stephen. The panel had regard to Rule 21 and heard the submissions of Mr Hoskins who invited the panel to continue in the absence of Mr Stephen. He submitted that Mr Stephen had voluntarily absented himself. Mr Hoskins referred the panel to the email dated 1 February 2024 between Mr Stephen and his case officer where he requested a postponement of this hearing [PRIVATE]. The NMC case officer replied on 2 February 2024 saying,

‘Unfortunately we will be unable to reschedule the coming review as we will need to review your sanction before it expires on the 17 February 2024.

For this reason it is imperative the panel holds the coming review.

If you will not be able to attend please forward any submissions that will help the panel to see your progress.’

Mr Hoskins submitted that the case officer is in an administrative role and did not have the power to say a postponement was not necessary. However, he noted that Mr Stephen had provided submissions and supporting evidence to assist the panel and had not sought a postponement since he received the NMC response on 2 February 2024.

Mr Hoskins submitted that it is in the public interest to proceed in the absence of Mr Stephen, given the substantive order is due to expire shortly. He said that the public would be concerned that the substantive conditions of practice order has been ongoing for a considerable amount of time and would want this to be addressed expeditiously. Mr Hoskins submitted that if this hearing is adjourned, the NMC would be unable to relist this case in accordance with the Rules. He further submitted that

any detriment to the registrant would be mitigated by the fact that he has provided written submissions.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Stephen. In reaching this decision, the panel has considered the submissions of Mr Hoskins, the representations from Mr Stephen, the NMC's guidance on postponements and adjournments and proceeding in the absence of the registrant. It accepted the advice of the legal assessor and had regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No formal application for an adjournment has been made by Mr Stephen;
- The NMC did not lay out any options for Mr Stephen to consider in response to his request for postponement. However, Mr Stephen provided submissions and was content to continue with conditions;
- Mr Stephen has engaged with the NMC and indicated why he cannot attend this hearing;
- The substantive order is set to lapse in a few days;
- There is no reason to suppose that adjourning would secure his 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 to proceed in the absence of Mr Stephen.

Decision and reasons on review of the substantive order

The panel decided to extend and confirm the current conditions of practice order for a period of two years.

This extension will come into effect at the end of 16 February 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh effective review of a substantive conditions of practice order originally imposed for a period of 18 months by a Conduct and Competence Committee panel on 15 December 2016. The first reviewing panel adjourned the hearing on 7 June 2018. The first effective review was held on 11 July 2018 by a Fitness to Practice Committee, and the reviewing panel varied and extended the conditions of practice order for a period of four months. The second review was held on 18 October 2018 when the conditions of practice order was replaced with a suspension order for a period of three months. The third review was held on 17 January 2019 and the suspension was replaced with a conditions of practice order for a period of 18 months. The fourth review was held on 8 July 2020, the conditions of practice order was extended for a further 18 months. The fifth review was held on 19 January 2022, the conditions of practice order was varied and extended for a further 12 months. The sixth review was held on 10 January 2023, the conditions of practice order was extended for a further period of 12 months. On 9 January 2024, the reviewing panel adjourned the hearing.

The current order is due to expire at the end of 16 February 2024.

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, whilst employed by Leicester Partnership NHS Trust:

1. *As the Health Visitor assigned to Baby O between May 2012 and October 2012:*
 - 1.1. *Did not create a care plan for Baby O*
 - 1.2. *Did not record in the safeguarding section of Baby O’s records that there had been previous safeguarding concerns regarding her family;*
 - 1.3. *Having noted on 23rd July 2012 that Baby O’s weight had dropped to the 9th centile:*
 - 1.3.1. *Between 23 July 2012 and 26 September 2012 you did not inform Baby O’s General Practitioner;*
 - 1.3.2. *Between 23 July 2012 and 26 September 2012 did not visit Baby O;*

- 1.4. *Having noted on 26 September 2012 that Baby O's weight was in the 9th centile:*
 - 1.4.1. *Between 26 September 2012 and 8 October 2012, did not arrange or attend another visit to Baby O;*
 - 1.4.2. *Did not request a referral to a paediatrician and/ or provide the GP with sufficient information to refer Baby O to a paediatrician;*
2. *As the Health Visitor assigned to Sibling A between April 2012 and October 2012:*
 - 2.1. *Did not follow up and/or record social services contact regarding Sibling A between June 2012 and October 2012;*
 - 2.2. *Did not record an ongoing assessment of Sibling A following hospital referral in May 2012;*
3. *As the Health Visitor assigned to Baby 17 between March 2012 and October 2012:*
 - 3.1. *Did not complete the safeguarding section of Baby 17's records following your visits on*
 - 3.1.1. *26 March 2012,*
 - 3.1.2. *2 April 2012,*
 - 3.1.3. *22 May 2012*
 - 3.2. *Having been made aware on 17 May 2012 that Baby 17 had sustained an injury, did not undertake and/or record an assessment of Baby 17's condition on your visit on 22 May 2012,*
 - 3.3. *Did not record adequate assessments of Baby 17's family situation.*
 - 3.4. *In your entry for the visit of 15 June 2012, you did not record what action was taken when the mother of Baby 17 received a call from her partner who had been prohibited from contacting her.*
 - 3.5. *You did not weigh Baby 17 and/or record Baby 17's weight on*
 - 3.5.1. *13 July 2012*
 - 3.5.2. *8 November 2012*
4. *As the Health Visitor assigned to Child 23 between 30 October 2012 and 3 December 2012*

- 4.1. *Did not adequately assess and/or record an assessment of the family's needs and risks for the visit of 2 November 2012.*
- 4.2. *Did not complete a 3 to 4 month development review*
- 4.3. *Did not follow up your phone call to the social worker on 3 December 2012*
5. *As the Health Visitor assigned to Child 29 between 24 May 2012 and 8 October 2012*
 - 5.1. *Did not adequately assess and or record such assessments on Child 29 following your visit on 1 June 2012*
 - 5.2. *In the record for your visit to Child 29 on 1 June 2012, you did not record a plan of action.*
 - 5.3. *Did not return the call from Child 29's social worker on 30 July 2012*
 - 5.4. *Did not hand over Baby 29 to the Health Visiting team on 8 October 2012*
 - 5.5. *Recorded in your entry for the visit of 1 June 2012 that Child 29 had "no obvious health or development concerns" when that was not the case.*
 - 5.6. *Recorded insufficient information in relation to Child 29's referral to the Speech and Language Therapist.*
 - 5.7. *In your referral letter to the Speech and Language Therapist you*
 - 5.7.1. *Did not include sufficient information regarding Child 29's current abilities and/or difficulties*
 - 5.7.2. *Did not include contact details for Child 29's social worker*
 - 5.7.3. *Did not indicate that Child 29 was on a Child Protection Plan.*
6. *Between the period 26 March 2012 and 29 November 2012 on one or more occasions, you delayed making entries in patient notes in relation to one or more children as set out in Schedule 1*
7. *Between the period 26 March 2012 and 29 November 2012 on one or more occasions, you recorded insufficient information in patient notes in relation to one or more children as set out in Schedule 2*
8. *Between the period 26 March 2012 and 29 November 2012 you did not complete the consent template for*

8.1. Child 1

8.2. Child 2

9. Between the period 26 March 2012 and 29 November 2012 on one or more occasions, you did not record any information in patient notes an or any other relevant documents in relation to one or more children as set out in Schedule 3
10. On various unknown dates between 2008 and July 2010, you stored patient information of the nature detailed in Schedule 4 in your car.

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

Schedule 1

CHILD	DATE OF CONTACT	DATE ENTRY MADE	TYPE OF PATIENT NOTE
Child 1	24 May 2012	31 May 2012	Birth visit
Child 1	21 June 2012	25 June 2012	6 weeks follow up visit
Child 1	29 August 2012	24 September 2012	4 month contact
Child 2	3 April 2012	5 April 2012	Birth visit
Child 2	1 May 2012	11 May 2012	6 weeks follow up visit
Child 3	8 May 2012	10 May 2012	Birth visit
Child 3	1 June 2012	15 June 2012	6 weeks follow up visit
Child 4	11 May 2012	15 May 2012	Birth visit
Child 4	11 June 2012	21 June 2012	6 weeks follow up visit
Child 5	28 March 2012	2 April 2012	Birth visit
Child 5	3 April 2012	5 April 2012	Follow up visit
Child 5	17 April 2012	20 April 2012	6 weeks follow up visit
Child 5	11 June 2012	21 June 2012	Follow up visit
Child 6	11 May 2012	15 May 2012	Birth visit
Child 6	25 May 2012	21 June 2012	Tel note
Child 6	21 June 2012	4 July 2012	6 weeks follow up visit
Child 6	21 June 2012	28 June 2012	Maternal records
Child 7	17 April 2012	20 April 2012	6 weeks follow up visit
Child 8	13 June 2012	21 June 2012	6 weeks follow up visit
Child 9	4 July 2012	6 July 2012	Birth visit
Child 9	1 August 2012	9 August 2012	6 weeks follow up visit
Child 10	11 July 2012	13 July 2012	Birth visit
Child 10	23 July 2012	7 August 2012	Tel note
Child 11	29 June 2012	2 July 2012	Birth visit
Child 12	16 August 2012	21 August 2012	Birth visit/Movement in visit
Child 13	24 July 2012	30 July 2012	Maternal records

Child 14	31 August 2012	18 September 2012	6 weeks follow up visit
Child 14	31 August 2012	24 September 2012	6 weeks follow up visit
Child 16	10 August 2012	15 August 2012	Birth visit
Child 17	31 August 2012	11 September 2012	Review conference
Child 17	19 September 2012	25 September 2012	Safeguarding Supervision
Child 17	26 March 2012	30 March 2012	Maternal records
Child 18	27 September 2012	11 October 2012	Initial visit
Child 19	3 October 2012	12 October 2012	New entrant visit
Child 19	4 October 2012	10 October 2012	Initial visit
Child 20	21 November 2012	22 November 2012	6 weeks follow up visit
Child 20	24 October 2012	26 October 2012	Maternal records
Child 22	18 September 2012	25 September 2012	Follow up contact
Child 22	5 October 2012	10 October 2012	6 weeks follow up visit
Child 24	27 November 2012	29 November 2012	Initial visit
Child 25	15 October 2012	18 October 2012	Initial visit
Child 26	10 October 2012	30 October 2012	Initial visit
Child 26	24 October 2012	26 October 2012	Follow up visit
Child 27	28 September 2012	12 October 2012	6 weeks follow up visit
Child 28	27 June 2012	29 June 2012	6 weeks follow up visit
Child 29	1 June 2012	21 June 2012	Initial visit

Schedule 2

CHILD	Alleged failings
Child 1	On 25 June 2012 did not record sufficient information about consultation and findings
Child 1	On 8 March 2012 did not outline plan of action, no evidence of holistic assessment after moving from homeless accommodation
Child 2	On 5 April 2012 did not outline adequate care, only recorded CNN support for breast feeding
Child 3	On 10 May 2012 did not outline a robust action plan, in that you did not record the next planned visit and the advice given to the parents

Schedule 3

CHILD	Alleged failings
Child 1	did not record any information regarding domestic violence
Child 1	did not record visit of 29 August in the maternal records
Child 1	did not record the visit on 24 May 2012 in Sibling 1's records
Child 1	did not record the visit on 29 August 2012 in Sibling 1's records
Child 1	did not record the visit on 24 May 2012 in Sibling 2's records
Child 1	did not record the visit on 29 August 2012 in Sibling 2's records
Child 4	did not update the records regarding jaundice
Child 5	did not record any of the 4 visits in Sibling 1's records
Child 12	did not record visit on 16 August 2012 in maternal records
Child 12	did not weigh or complete a developmental assessment

Schedule 4

DOCUMENT TYPE
Case Notes
Hospital Discharge
Family Support Records
Clinic Slips
New Birth Notifications
Accident and Emergency Attendance Records
Transfer Ins
Miscellaneous
Immunisation Consents
Neonatal Hospital Discharges
Paediatrics Letters
General Items for Filing
Health Visitor Follow-up
Development Records
Newborn Hearing Screening
Pre-School Surveillance Slips
Maternity Discharges
Child Protection Records

The sixth reviewing panel on 10 January 2023 determined the following with regard to impairment:

'The panel noted that since the previous review hearing, Mr Stephen still has not been able to secure a place on a return to practice course, [PRIVATE]. As a result, he has been unable to undertake a registered nursing role that would enable him to address the concerns about his practice. [PRIVATE]. Nonetheless, the panel concluded that there has been no material change of circumstances since the last review to undermine the necessity of an order.

In light of this, this panel determined that there continues to be a risk that Mr Stephen may repeat errors of the kind found proved. It therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its function includes maintaining public confidence in the nursing profession and declaring and upholding proper

standards of conduct and performance. It considered that a member of the public would be concerned to learn that a nurse who has been unable to strengthen his practice in identified areas of concern was able to practise without restriction. The panel therefore determined that a finding of continuing impairment on public interest grounds is also required.

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

The sixth reviewing panel on 10 January 2023 determined the following with regard to sanction:

'Whilst Mr Stephen appears to have had valid reasons for his lack of progress towards remediation, the panel has noted that Mr Stephen has been subject to restricted practice for over six years. It noted that Mr Stephen's registration fee expired in March 2018, and considered whether allowing the existing order to expire and thus enabling Mr Stephen's registration to lapse would be the most suitable way to protect the public from the unaddressed concerns about his practice. However, in line with the NMC's published guidance on allowing orders to expire when a nurse's registration will lapse (Reference REV-3h, last updated 9 April 2018), the panel concluded that this would be a disproportionate response. Mr Stephen has engaged with the NMC, has clearly and consistently indicated that he wishes to return to nursing, and his employer has indicated that it is willing to sponsor a return to practice course. The panel has also considered the public interest in enabling an experienced nurse to return to safe practice.

The panel next decided whether to extend the existing conditions of practice order. It acknowledged that until Mr Stephen enrolls on a return to practice course, he will be unable to demonstrate compliance with the conditions. However, Mr Stephen has stated that he has recently applied for funding for the course from his employer. The panel was satisfied that the current conditions of practice were workable with a return to practice course

should Mr Stephen be successful in his application. It noted that Mr Stephen has asked for the current conditions to continue. The panel concluded that extending the existing conditions of practice order would be the most proportionate and appropriate response.

The panel went on to consider whether any other sanction was appropriate. It decided that taking no action or imposing a caution order would not be appropriate, bearing in mind the seriousness of the charges. The panel went on to consider whether a suspension order would be appropriate; however, it was not satisfied that the level of risk had increased to justify the imposition of a suspension order or a striking-off order and therefore, taking such action would be disproportionate.

The panel wished to emphasise to Mr Stephen the importance of making significant progress towards remediation, through compliance with the conditions of practice order by the next review date, should he wish to remain on the register and secure the eventual removal of restrictions from his registration. In that respect, the panel determined that an extension of 12 months to the existing order would be sufficient. Accordingly, under Article 30(1), the panel has decided to extend the existing order for a period of 12 months from the expiry date of the existing order, namely the end of 16 February 2023.

The panel was satisfied that the public would be suitably protected and the public interest upheld by the continuation of the following conditions:

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. 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.

2. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan, which must be reviewed and documented with your line manager at least monthly, to address the concerns about the following areas of your practice:*
 - a. *Record keeping*
 - b. *Safeguarding*
 - c. *Child Growth and development*
 - d. *Communication*
 - e. *Data protection*
 - f. *Holistic assessment skills*
3. *You must tell the NMC within 14 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.*
4. *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.*
5. *a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*

b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

6. *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 14 days before any NMC review hearing or meeting.*

7. *You must immediately tell the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (7) above, to them.*
 - a. *Any organisation or person employing, contracting with, or using you to undertake nursing work.*
 - b. *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.*
 - c. *Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
 - d. *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

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.

Any future panel reviewing this case would be assisted by the following information sent to the NMC in advance of the next review hearing:

- *Evidence of professional development, including documentary evidence of completion of courses relevant to the following areas of your misconduct:*

- *Record keeping*
 - *Safeguarding*
 - *Child Growth and development*
 - *Communication*
 - *Data protection*
 - *Holistic assessment skills*
- *Testimonials from your current line manager and/or mentors on a return to practice course that detail your current work practices and personal development plan in the following areas:*
- *Record keeping*
 - *Safeguarding*
 - *Child Growth and development*
 - *Communication*
 - *Data protection*
 - *Holistic assessment skills*
- *A forward plan of the steps you are taking to return to safe, unrestricted practice to include evidence of successful completion of the return to practice course you plan to undertake, or written confirmation of your enrolment on the course.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Stephen'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 Mr Stephen's latest submissions and supporting evidence. It has taken account of the submissions made by Mr Hoskins on behalf of the NMC and the NMC guidance on impairment.

Mr Hoskins provided the panel with the background facts of the case and directed the panel to the relevant pages in the NMC bundle.

Mr Hoskins advised the panel Mr Stephen had provided submissions and that his appraisal contained positive references from his manager and colleagues. He further stated that Mr Stephen had been promoted from his Band 3 role to a Band 4 role within his current employment. Mr Hoskins stated that Mr Stephen had not undertaken a return to practice course and referred to Mr Stephen's written submissions. Mr Hoskins stated that Mr Stephen has not worked in a clinical capacity since December 2016 and there was no evidence of remediation of the misconduct found proved, as he has not had the opportunity to demonstrate his practice.

Mr Hoskins highlighted that Mr Stephen's [PRIVATE] have not yet allowed him to complete the return to practice course. Mr Hoskins submitted that Mr Stephen's fitness to practise remains impaired, on the grounds of public protection and also on the grounds of public interest. Mr Hoskins stated the conditions of practice imposed on Mr Stephen have not been met as he has not had the chance to work in a clinical environment. Mr Hoskins referred the panel to the NMC guidance REV-3h (last updated April 2023).

Mr Hoskins referred the panel to Mr Stephen's written submissions, in which he stated;

'I understand the frustration that the panel are likely to feel at the lack of progress, but I feel it is better to wait and complete the work that needs to be completed at a time when I know it can be achieved.'

'I would like to thank the panel for their attention in this matter and hope you are able to deliver a positive outcome.'

Mr Hoskins said Mr Stephen has indicated that he accepts that his fitness to practise remains impaired, but he is working towards undertaking the return to practice course. Mr Hoskins identified that Mr Stephen remains employed in the healthcare sector, with the same employer Leicestershire Partnership Trust. There are clear indications that Mr Stephen wants to return to practise and has fully engaged with the NMC process.

Mr Hoskins submitted that a suspension order or strike-off order would be wholly disproportionate in this case as the misconduct is remediable. However, he said that the outcome of whether the order is continued or lapses is a matter for the panel to decide.

The panel also had regard to Mr Stephen's written submissions.

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 Stephen's fitness to practise remains impaired.

The panel noted that since the previous review hearing, Mr Stephen still has not been able to secure a place on a return to practice course, [PRIVATE]. As a result, he has been unable to undertake a registered nursing role that would enable him to address the concerns about his practice. [PRIVATE]. Mr Stephen also acknowledged in his written submissions that he is currently impaired and that he will need to undertake a fitness to practise course. Nonetheless, the panel concluded that there has been no material change of circumstances since the last review to undermine the necessity of an order.

In light of this, this panel determined that there continues to be a risk that Mr Stephen may repeat errors of the kind found proved. It therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its function includes maintaining public confidence in the nursing profession and declaring and upholding proper standards of conduct and

performance. It considered that a member of the public would be concerned to learn that a nurse who has been unable to strengthen his practice in identified areas of concern was able to practise without restriction. The panel therefore determined that a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Stephen'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 considered that Mr Stephen appears to have had valid reasons for his lack of progress towards remediation of the conduct found proved. It has noted that Mr Stephen has been subject to restrictions on his practice for over seven years. It noted that Mr Stephen's registration fee expired in March 2018, and considered whether allowing the existing order to expire and thus enabling Mr Stephen's registration to lapse would be the most suitable way to protect the public from the unaddressed concerns about his practice. However, in line with the NMC's published guidance on allowing orders to expire when a nurse's registration will lapse (Reference REV-3h, last updated 24 April 2023), the panel concluded that this would be a disproportionate response. Mr Stephen has engaged with the NMC, has clearly and consistently indicated that he wishes to return to nursing and his employer has continued to be supportive. The panel has also considered the public interest in enabling an experienced nurse to return to safe practice.

The panel next decided whether to extend the existing conditions of practice order. It acknowledged that until Mr Stephen completes a return to practice course, he will be unable to take employment as a nurse and demonstrate compliance with the conditions. However, Mr Stephen has stated he wishes to take the return to practice course in 2025 and acknowledges that he *'feels it is better to wait and complete the work that needs to be completed at a time when I know it can be achieved'*. The panel recognised that Mr

Stephen has outlined that the fitness to practise course will be one that requires his full attention and at this current moment, he is unable to commit fully [PRIVATE].

The panel was satisfied that the current conditions of practice were workable. It noted that Mr Stephen has asked for the current conditions to continue. The panel concluded that extending the existing conditions of practice order would be the most proportionate and appropriate response.

The panel went on to consider whether any other sanction was appropriate. It decided that taking no action or imposing a caution order would not be appropriate, bearing in mind the seriousness of the charges. The panel went on to consider whether a suspension order would be appropriate; however, it was not satisfied that the level of risk had increased to justify the imposition of a suspension order or a striking-off order and therefore, taking such action would be disproportionate.

The panel wished to emphasise to Mr Stephen the importance of making significant progress towards remediation, through compliance with the conditions of practice order by the next review date, should he wish to remain on the register and secure the eventual removal of restrictions from his registration. The panel was of the view that the next reviewing panel might well consider that if no further forward, a further prolonged period of restriction on his practice may not be in Mr Stephen's own interests or those of the NMC.

In that respect, the panel determined that an extension of two years to the existing order would be sufficient to allow Mr Stephen to undertake the return to practice course and go on to comply with the conditions of practice.

Accordingly, under Article 30(1), the panel has decided to extend the existing order for a period of two years from the expiry date of the existing order, namely the end of 16 February 2024.

The panel was satisfied that the public would be suitably protected and the public interest upheld by the continuation of the following conditions:

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. 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.
2. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan, which must be reviewed and documented with your line manager at least monthly, to address the concerns about the following areas of your practice:
 - a. Record keeping
 - b. Safeguarding
 - c. Child Growth and development
 - d. Communication
 - e. Data protection
 - f. Holistic assessment skills
3. You must tell the NMC within 14 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.
4. 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.
5. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.

- b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.
6. 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 14 days before any NMC review hearing or meeting.
7. You must immediately tell the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (7) above, to them.
- a. Any organisation or person employing, contracting with, or using you to undertake nursing work.
 - b. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.
 - c. Any prospective employer (at the time of application) where you are applying for any nursing appointment.
 - d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

Before the end of the period of the order, a panel will hold a review hearing to see how well Mr Stephen has 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. The reviewing panel could alternatively decide to make no further order, which would have the effect of removing Mr Stephen's entry from the register.

Any future panel reviewing this case will want to be satisfied that Mr Stephen is capable of safe and unrestricted practice. It will be assisted by Mr Stephen forwarding the following information to the NMC in advance of the next review hearing:

- Evidence of professional development, including documentary evidence of completion of courses relevant to the following areas of Mr Stephen's misconduct:
 - Record keeping
 - Safeguarding
 - Child Growth and development
 - Communication
 - Data protection
 - Holistic assessment skills

- Testimonials from Mr Stephen's current line manager and/or mentors on a return to practice course that detail his current work practices and personal development plan in the following areas:
 - Record keeping
 - Safeguarding
 - Child Growth and development
 - Communication
 - Data protection
 - Holistic assessment skills

- An account of the steps Mr Stephen has taken to return to safe, unrestricted practice.

This will be confirmed to Mr Stephen in writing.

That concludes this determination.