

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

**Substantive Meeting
Tuesday, 26 March 2024**

Virtual Meeting

Name of Registrant:	Amie Louise Allen
NMC PIN	19E1088E
Part(s) of the register:	Registered Nurse, Sub part 1 RNA: Adult nurse, level 1 (15 March 2021)
Relevant Location:	Hull
Type of case:	Misconduct
Panel members:	Dr Katharine Martyn (Chair, registrant member) Hannah Harvey (Registrant member) James Carr (Lay member)
Legal Assessor:	Ian Ashford-Thom
Hearings Coordinator:	Clara Federizo
Facts proved by admission:	Charges 1a-d, 2, 3a-c, 4, 5 and 6
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	Suspension order (12 months)
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Miss Allen's registered email address by secure email on 15 February 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, that the meeting will take place on or after 21 March 2024 and the fact that this meeting was to be heard virtually.

The panel noted that the email address used to deliver the Notice was different from the email listed on the Register. However, it also noted that the email on the system was an NHS email address and Miss Allen is subject to an interim suspension order. It determined that it was reasonable to infer that the email used to deliver the Notice was her current email address, as Miss Allen previously used this email to communicate with the Nursing and Midwifery Council (NMC). She returned a completed Case Management Form (CMF) on 17 November 2023, and requested that a meeting be held. Miss Allen indicated that she does not intend to attend the hearing and will not be represented.

In the light of all of the information available, the panel was satisfied that Miss Allen has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse between 1 and 2 January 2022, whilst working the night shift on Ward 90, at Hull Royal Infirmary:

1. Failed to administer one or more of the following prescribed medications:
 - a. Dalteparin 18,000 IU (SC), to a patient unknown at 20:00 hours; **[ADMITTED]**

- b. Co-Amoxiclav 1.2g (IV), to a patient unknown at 22:00 hours; **[ADMITTED]**
- c. Levetiracetam 500mg (IV), to Patient C at 20:00; **[ADMITTED]**
- d. Co-Trimoxazole 960mg (IV), to a patient unknown at 22:00 hours. **[ADMITTED]**

2. Incorrectly signed the medication administration records ('MAR') to indicate that you had checked and administered medications for one or more of the patients identified at charge 1 above. **[ADMITTED]**

3. Completed one or more of the following medication administration records ('MAR') prior to administering medication:

- a. for Patient C, in relation to the 08:00 hours prescribed dose of Levetiracetam 500mg (IV); **[ADMITTED]**
- b. for a patient unknown, in relation to the 10:00 hours prescribed dose of Co-Trimoxazole 960mg (IV); **[ADMITTED]**
- c. for a patient unknown, in relation to the 06:00 hours prescribed dose of Co-Amoxiclav 1.2g (IV); **[ADMITTED]**

4. Your actions at charges 2 and/or 3 above were dishonest in that you sought to misrepresent that you had administered medication when you knew that you had not. **[ADMITTED]**

5. Entered a signature for Colleague A, without Colleague A's knowledge or permission, on the medication administration records ('MAR') to indicate that medicines had been administered and checked by a second checker in relation to one or more patients identified in charges 1 and 2 above. **[ADMITTED]**

6. Your actions at charge 5 above were dishonest in that you sought to misrepresent that Colleague A had checked the administration of medication when you knew that they had not. **[ADMITTED]**

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

Background

Miss Allen joined the NMC register on the 15 March 2021. She commenced employment at Hull University Teaching Hospital (the Trust) as a Band 2 in September 2019.

On 15 June 2022 the NMC received an employer referral from a Senior Matron at Hull University Teaching Hospital about Miss Allen, who worked as a staff nurse on Ward 90. The charges arose whilst Miss Allen was employed as a registered nurse at Hull Royal Infirmary. She was a newly qualified nurse.

Miss Allen admitted to falsifying patient drug cards during the night shift on Ward 90 in January 2022. She signed medication cards indicating she had administered intravenous medications when she had not, and also forged her colleague's signature. Another nurse, who worked the same shift, raised concerns with the ward manager, leading to Miss Allen's admission of guilt. The incident affected multiple patients, although exact numbers are uncertain due to incomplete documentation.

Following an internal investigation, Miss Allen was dismissed from her position.

Miss Allen cited personal stressors, [PRIVATE], as contributing factors to her actions.

Decision and reasons on facts

At the outset of the meeting, the panel noted the completed Case Management Form from Miss Allen, which stated that Miss Allen has made full admissions to all charges.

The panel therefore finds charges 1a-d, 2, 3a-c, 4, 5 and 6 proved in their entirety, by way of Miss Allen's admissions.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Allen's fitness to practise is currently impaired. There is no statutory definition of fitness to

practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Allen's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision.

The NMC identified the specific, relevant standards where Miss Allen's actions amounted to misconduct:

- '1.2 Make sure you deliver the fundamentals of care effectively,*
- 4. Act in the best interests of people at all times,*
- 6 Always practise in line with the best available evidence,*
- 8 Work co-operatively,*
- 10 Keep clear and accurate records relevant to your practice,*
- 13 Preserve safety,*
- 14 Be open and candid,*

18 Administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations,
19 Be aware of and reduce as far as possible any potential for harm associated with your practice,
20 Promote professionalism and trust,
20.1 Keep to and uphold the standards and values set out in the Code,
20.2 Act with honesty and integrity at all times.'

The panel considered the NMC's written submissions on misconduct (intro omitted):

"The NMC consider the misconduct in this case to be serious. By falsifying patient drug charts, Miss Allen placed several patients at risk of really serious harm. Documenting that patients have received IV medication as prescribed, when they have not, is plainly dangerous as it denies patients the treatment they require and impacts on care and care planning carried out by colleagues who rely on drug charts as an accurate and contemporaneous record of patients' medication status. The risk was heightened in this case because the medications were IV and some of them were critical. Miss Allen also pre-populated the morning doses resulting in the potential for some patients to go without 2 critical doses. The misconduct took place during a night shift, in and of itself an additional vulnerability given the reduced staffing levels and availability of medical and managerial staff at night. Falsification of a colleague's signature is extremely serious. Miss Allen says she panicked / felt overwhelmed but chose to respond to that by resorting to dishonesty and placed her own fears and anxieties around giving the required medication, above the best interests of several of her patients who, were vulnerable by being in hospital and who relied on her to provide them with safe, timely and effective care."

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel considered the NMC's written submissions on impairment (sections omitted):

“[...] When determining whether the Registrant’s fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions were:

- 1. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- 2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- 3. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
- 4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.*

The NMC submit that 1-4 can be answered in the affirmative in this case.

Impairment is a forward thinking exercise which looks at the risk the registrant’s practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

The registrant states (see Registrant’s Bundle 2 of 5) that after the incident she worked for six months without further incident and undertook retraining on her medication management and carried out reflective work fortnightly with the support of her supervisors.

[...] For completeness, efforts were made by the NMC to retrieve any documentary evidence of training / supervision / reflection without success.

The NMC consider the registrant has displayed limited insight. Whilst she made full and frank admissions at the scene, and underwent a short period of reflective trouble-free practise with some re-training, she has not demonstrated insight into the seriousness of her actions and the risk of harm to patients.

The NMC therefore submit that there is a continuing risk to the public due to the registrant's lack of full insight, failure to undertake any further reflection / training and because she has not had the opportunity to demonstrate strengthened practice through working.

[...] The NMC consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior. It is submitted that any properly informed member of the public would be extremely concerned to learn that a registrant engaging in dishonest conduct directly impacting patients were free to practice unrestricted."

The panel accepted the advice of the legal assessor.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Miss Allen's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Allen's actions amounted to a breach of the Code. Specifically:

'1 *Treat people as individuals and uphold their dignity*

To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

10 *Keep clear and accurate records relevant to your practice*

To achieve this, you must:

10.3 complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

- 18.1 *prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs*
- 18.2 *keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

- 20.1 *keep to and uphold the standards and values set out in the Code*
- 20.2 *act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*
- 20.3 *be aware at all times of how your behaviour can affect and influence the behaviour of other people'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Miss Allen's actions in falsifying records to indicate that she had administered medication, which she had not, put patients at a real risk of harm. The panel noted that although no patients had come to harm, the drugs not administered but signed for could have led to severe consequences for the patients including the risk of pulmonary embolism (PE) enlarging or moving, infection spreading and risk of sepsis, and further epileptic seizures.

Further, the panel found that Miss Allen's actions in forging the signature of a colleague was deliberate and unacceptable and it is a serious departure from the professional standards expected of a nurse.

The panel determined that Miss Allen's actions were dishonest and a serious matter as this was a calculated decision as opposed to an error in judgement.

The panel concluded that Miss Allen's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Allen'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. To justify that trust, nurses must be honest and open and act with integrity. 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/their fitness to practise is impaired in the sense that S/He/They:

- 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; and/or*

- d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel was satisfied that all four limbs, as set out above, were engaged.

The panel finds that patients were put at risk of physical harm as a result of Miss Allen's misconduct. Miss Allen's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel considered the reflective piece provided by Miss Allen but found this demonstrated no insight into the impact her actions had on patients. The panel acknowledged that Miss Allen made early admissions, and her reflection recognised this, but it lacked detail as she had not demonstrated an understanding of how her actions put the patients at a risk of harm, how this impacted negatively on the reputation of the nursing profession or how she would handle the situation differently in the future. Therefore, the panel found that Miss Allen's insight was insufficient at this stage.

The panel also noted that there was some indication that Miss Allen did not recognise that her practise had been restricted by the Trust following this incident. The panel had before it the statement of Witness 1, in which he stated that:

“...she came back on supervised practice, which was very similar to that of the student nurse. She remained on supervised practice until the internal investigation was concluded”.

In addition, in Miss Allen’s correspondence with the NMC she stated: *“...if my practice was dangerous and the incident indicated a dismissal was necessary why were no formal restrictions placed on my practice for those six months”*, which seemed to suggest that she has not fully understood the seriousness of the charges admitted and does not believe she posed any risk to patients as a result of her actions.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, the panel did not have any evidence before it to determine whether or not Miss Allen has taken steps to strengthen her practice.

The panel is of the view that there is a risk of repetition as the concerns relate to attitudinal problems which are, not impossible but, difficult to remediate and Miss Allen is yet to address these. It also noted that there were previous concerns about her behaviour. 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.

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, particularly in relation to dishonesty, and therefore also finds Miss Allen’s fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that Miss Allen's registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 15 February 2024, the NMC had advised Miss Allen that it would seek the imposition of a suspension order for 12 months if the panel found Miss Allen's fitness to practise currently impaired.

Decision and reasons on sanction

Having found Miss Allen'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:

- Seriousness of the dishonesty – a deliberate choice, not an error of judgement
- No insight into failings
- Conduct which put patients at serious risk of suffering harm

The panel also took into account the following mitigating features:

- Admissions, on being challenged

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 Miss Allen'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 Allen'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 placing conditions of practice on Miss Allen'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 is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on Miss Allen's registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*

- *No evidence of repetition of behaviour since the incident;*

In relation to dishonesty, the panel determined that Miss Allen's actions were calculated decisions as opposed to errors in judgement. However, it had no evidence before it that this was a result of harmful deep-seated personal or attitudinal problems. It noted that the incidents took place during one shift as opposed to over a significant period of time. The panel also had no evidence before it to suggest that the conduct had been repeated since or previously.

Whilst the panel acknowledged that the misconduct took place during one single shift, it recognised that this concerned multiple elements of dishonesty which affected five different patients. It also considered that Miss Allen made early admissions and that she had no referrals to the NMC prior to this case.

The panel noted that Miss Allen stated she had personal mitigations. [PRIVATE]. It noted she had only qualified as a nurse in March 2021, 10 months prior to the incident.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. It concluded that a temporary removal was appropriate to meet the public protection risk and public interest in this case as it marks the seriousness of the misconduct. It also concluded that this would allow Miss Allen sufficient time to reflect on her actions in more depth and take the necessary steps towards remediation.

The panel did go on to consider seriously whether a striking-off order would be more appropriate and proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Allen'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.

The panel noted the hardship such an order will inevitably cause Miss Allen. 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 12 months was appropriate in this case to mark the seriousness of the 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:

- Evidence of professional development, including demonstrable insight into the seriousness of the charges admitted.
- A personal reflective piece, which particularly outlines how her actions affected the patients in her care and her colleagues, and how her dishonesty would impact on the confidence of the public in the profession.
- Submit any personal and/or work references/testimonials.
- Demonstrate honesty and integrity in the workplace.
- Strategies put in place to manage her health and wellbeing.
- Evidence of how she has maintained her knowledge and understanding around medicines management and practice and/or how she has kept up to date with nursing practice.

This will be confirmed to Miss Allen in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Allen's own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that:

“If a finding is made that the registrant’s fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

If a finding is made that the registrant’s fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registrant we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.”

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow for any potential appeal period.

If no appeal is made, then the interim suspension order will be replaced by the substantive suspension order 28 days after Miss Allen is sent the decision of this hearing in writing.

That concludes this determination.