

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

**Substantive Order Review Meeting
Friday, 31 May 2024**

Virtual Meeting

Name of Registrant: Margo Murray

NMC PIN 06I0317S

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (Level 1) – September 2009

Relevant Location: Glasgow

Type of case: Misconduct

Panel members: Nicola Dale (Chair, lay member)
Vanessa Bailey (Registrant member)
Joanna Bower (Lay member)

Legal Assessor: Jayne Salt

Hearings Coordinator: Audrey Chikosha

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on 10 July 2024 in accordance with Article 30 (1).**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mrs Murray's registered email address by secure email on 18 April 2024.

The panel took into account that the Notice of Meeting provided details of the review, that the review meeting would be held no sooner than 27 May 2024 and inviting Mrs Murray to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Murray 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).

Decision and reasons on review of the current order

The panel decided to impose a further substantive suspension order for a period of 6 months. This order will come into effect at the end of 10 July 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 13 June 2023.

The current order is due to expire at the end of 10 July 2024.

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 7 September 2020 were in attendance at work and unfit for duty.
2. On 21 March 2019 were in attendance at work and unfit for duty.

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:

'Whilst there is no evidence to suggest that Mrs Murray's actions caused actual harm to patients, her misconduct and failure to act professionally at work put patients at risk of significant harm. Furthermore, having breached some provisions of the Code, the panel determined that Mrs Murray's misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find Mrs Murray's fitness to practise to be impaired and the charges relating to misconduct as extremely serious. The panel concluded that the first three limbs have been engaged.'

The panel referred to the NMC's guidance on insight (FTP-13b):

'A nurse, midwife or nursing associate who shows insight will usually be able to:

- *step back from the situation and look at it objectively recognise what went wrong*
 - *accept their role and responsibilities and how they are relevant to what happened*
 - *appreciate what could and should have been done differently*
 - *understand how to act differently in the future to avoid similar problems happening.'*
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- *'If they had the opportunity to do so, did the nurse, midwife or nursing associate cooperate with their employer's or any other local investigation into the concerns?*

- *Did the nurse, midwife or nursing associate accept the concerns against them when first raised by their employer?*
- *Did the nurse, midwife or nursing associate, voluntarily or without prompting, draw any failings or inappropriate conduct to the attention of their employer?*
- *Did the nurse, midwife or nursing associate ‘self-report’ to the NMC, when a referral might otherwise not have been made by someone else?*
- *Does the nurse, midwife or nursing associate accept the substance of our regulatory concern, and accept responsibility for any failings or inappropriate conduct?*
- *Has the nurse, midwife or nursing associate done so since the early stages of our investigation?*
- *Does the nurse, midwife or nursing associate acknowledge:*
 - *any harm or risk of harm, to patients?*
 - *any damage to public confidence in the professions?*
 - *how far their conduct or practice fell short of professional standards?*
 - *their own responsibility for the problem, without seeking to blame others or excuse their actions?’*

In considering insight, it took into account that Mrs Murray has not shown any insight into her failings, neither has she made any attempts to remediate. It therefore considered there to be a risk of repetition of her conduct and an unwarranted risk of harm to patients in her care.

The panel took into account that there is a risk of repetition as the second incident had occurred 18 months after the first. It also noted that, in relation to the first incident (2019), Mrs Murray had stated that it was “a one-off...this will never happen again”. Therefore, the panel 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 are 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, which 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 considered there to be a public interest in the circumstances of this case. The panel found that the charges found proved are serious. It was of the view that a fully informed member of the public would be concerned by its findings on facts and misconduct. The panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Mrs Murray's fitness to practise as a registered nurse is currently impaired on the grounds of public protection and public interest.'

The original panel determined the following with regard to sanction:

'The panel first considered whether to take no action but concluded this would be neither proportionate nor in the public interest given the seriousness of the case.

It then considered the imposition of a caution order but again determined that, due to the public protection issues identified, an order that does not restrict Mrs Murray's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Mrs Murray'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 Mrs Murray'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;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *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, given the nature of the charges found proved, there are no practical or workable conditions that could be formulated. The panel concluded that the misconduct identified in this case was not something that could be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on Mrs Murray'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 cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be 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 Mrs Murray'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....'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Murray's 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 ability to practise kindly, safely, and professionally. 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.

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 Mrs Murray's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Murray had insufficient insight. At this meeting the panel had no new information to prove the contrary and therefore determined that Mrs Murray's insight remains insufficient.

In its consideration of whether Mrs Murray has taken steps to strengthen her practice, the panel had no new information before it to suggest that she has.

The panel therefore decided that a finding of continued impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continued impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mrs Murray's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Murray's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Murray'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 a conditions of practice on Mrs Murray'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 bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Murray's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Murray further time to fully reflect on her previous failings. The panel concluded that a further 6-month suspension order would be the appropriate and proportionate response and would afford Mrs Murray adequate time to further develop her insight and take steps to strengthen their practice. It would also give Mrs Murray an opportunity to approach past and current health professionals to attest to her character and behaviour in the workplace since the substantive hearing.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. The panel did consider a striking-off order but found that it was not proportionate nor appropriate at this time. Accordingly, the panel determined to impose a suspension order for the period of

6 months to provide Mrs Murray with an opportunity to engage with the NMC and provide evidence of strengthened practice and insight. It considered this to be the most appropriate and proportionate sanction available at this time.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 10 July 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mrs Murray's attendance and engagement at the next review hearing
- Reflective statement from Mrs Murray
- Testimonials or references from the workplace

This will be confirmed to Mrs Murray in writing.

That concludes this determination.