

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

**Substantive Order Review Hearing
Wednesday, 13 August 2025**

Virtual Hearing

Name of Registrant:	Lynne Preston
NMC PIN:	90K0074E
Part(s) of the register:	Registered Nurse – Sub Part 1 RN1: Adult Nursing – (8 February 1994)
Relevant Location:	Bradford
Type of case:	Misconduct
Panel members:	Dale Simon (Chair, lay member) Charlotte Lara Jakab-Hall (Registrant member) Katherine Richards (Lay member)
Legal Assessor:	Graeme Henderson
Hearings Coordinator:	Emma Hotston
Nursing and Midwifery Council:	Tony Convery
Mrs Preston:	Present and unrepresented
Order being reviewed:	Suspension order (12 months) (with review)
Fitness to practise:	Impaired
Outcome:	Existing order confirmed

Decision and reasons on review of the substantive order

The panel decided to confirm the current suspension order.

This is an early review of the substantive order imposed on 3 January 2025. This review is being held because you have sent documentation to the Nursing and Midwifery Council (NMC) stating that you have retired from the nursing profession and have no intention of returning to work as a Registered Nurse.

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 3 January 2025.

The current order is due to expire at the end of 3 February 2026.

The panel is reviewing the order pursuant to Article 30(2) 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. *Accessed Patient A’s clinical records without clinical justification, on*
 - a. *29 February 2020 [PROVED]*
 - b. *1 March 2020 [PROVED BY WAY OF ADMISSION]*
 - c. *2 March 2020 [PROVED BY WAY OF ADMISSION]*
2. *On one or more occasion on or after 29 February 2020 disclosed Patient A’s confidential medical information to third parties, without clinical justification and/or consent. [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, your fitness to practise is currently impaired.'

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

....

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

The panel determined that limbs a), b) and c) are engaged in this case. The panel found that Patient A was caused emotional and psychological harm as a result of your misconduct. It determined that Patient A was put at risk of harm as he felt he could no longer receive treatment from the district nursing team at the Surgery following these concerns. In addition, the panel considered that wider harm was caused to Patient A's [PRIVATE]. Your misconduct had breached the fundamental tenets of the nursing profession, by failing to uphold patient dignity and privacy and to handle patient information securely and professionally, and therefore brought its reputation into disrepute.

In respect of Ms Fergus-Simms and Ms Robinson's submissions on limb d), the panel was not satisfied that you had acted dishonestly. It therefore did not find limb d) engaged in this case.

The panel acknowledged the context of the concerns in this case. It noted that there had been [PRIVATE]. Further, your misconduct took place at a stressful and deeply emotional time when [PRIVATE]. The panel considered that the personal nature of this context may have affected your judgement at the time of the misconduct.

The panel considered the factors set out in the case of Cohen v General Medical Council:

- whether the misconduct is capable of being addressed;*
- whether it has been addressed; and*
- whether the misconduct is highly unlikely to be repeated.*

The panel determined that the misconduct in this case is capable of being addressed. It considered that whilst you had accessed Patient A's clinical records on three occasions without clinical justification, there had not been a pattern of misconduct. The panel noted that it related to a single patient over a short period of three consecutive days and a single disclosure to a third party. The panel took into account that the misconduct was linked to

[PRIVATE] and although serious, it determined that this could be addressed through a willingness to engage in further reflection, develop your insight and undertake relevant training. The panel was encouraged by your expressed willingness in your reflective account to use this experience as a 'learning opportunity'.

Regarding insight, the panel considered that you had demonstrated limited insight. In your oral evidence and undated reflective account, you indicated that you regretted your actions, that you would not do it again and that you had let yourself and the nursing profession down. However, the panel was concerned that you had not addressed the impact of your actions on Patient A. You did not demonstrate an understanding of how your actions caused Patient A harm, nor did you provide an apology to him in your reflective account. The panel took account of the context and [PRIVATE], but was of the view that you had not yet taken a step back from the situation and looked at it objectively. On this basis, the panel determined that you had demonstrated insufficient insight.

In addition, the panel noted that in oral evidence, you passed comments about matters you had identified in Patient A's records and in its view, you were quite judgemental and unprofessional in some of these remarks. The panel was not satisfied that this pointed to an attitudinal problem that went beyond this particular set of circumstances. The panel was concerned, however, that you minimised your behaviour and sought to place some blame for your actions on your superiors due to lack of training on IT systems.

The panel also took into account the seven testimonials from your former and current colleagues, which suggested that you had an otherwise positive professional record and there were no concerns with your clinical practice. It noted that there was positive reference to you maintaining patient confidentiality from a current staff nurse colleague. However, the panel considered that these testimonials did not sufficiently address the specific concerns set out in the misconduct identified.

In respect of training, the panel noted your evidence that you have always been up to date with your mandatory information governance training. Despite this, you still accessed Patient A's clinical records and disclosed his confidential information without clinical justification. The panel had sight of your mandatory training record and your training certificates in data security, the duty of candour, information governance and data security awareness. However, it had no evidence that you have undertaken wider relevant training to consolidate your understanding of appropriate information governance and what to do when there is a breach.

As such, the panel could not conclude that it is highly unlikely that your misconduct would be repeated in the future. It therefore found that there is some risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

The panel bore in mind 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 to mark the unacceptability of your misconduct and to uphold proper professional standards. The panel considered that a well-informed member of the public would be concerned if a finding of impairment were not made in a case where you had carried out serious breaches of confidentiality in respect of a patient, and had not developed sufficient insight.

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 found your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was not satisfied that you can practise kindly, safely and professionally and therefore determined that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'Having found your 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:

- Abuse of a position of trust in that you breached confidentiality in accessing confidential information without clinical justification and passing this on to a third-party without clinical justification.*
- Your misconduct, in accessing Patient A's records, took place on three separate occasions, including after you were instructed not to access Patient A's records again by a colleague.*
- Incomplete insight. Although, the panel noted you now appear to accept the severity of your actions in a general clinical context, the panel did not consider you had sufficiently demonstrated an understanding of the specific impact your actions had on Patient A, [PRIVATE], whilst you were working in a role as a nurse.*
- Patient A suffered emotional and psychological harm in that he was distressed that you had accessed the information without his consent. He was also put at risk of harm as he felt he could no longer seek treatment from the District Nursing Team at the Surgery.*

The panel noted that your behaviour also caused harm to Patient A's [PRIVATE].

The panel also took into account the following mitigating features:

- Personal mitigation in that the incidents took place during a deeply emotional and stressful time for you, which may have affected your judgment at the time.*
- You made early admissions to Charges 1b and 1c. The panel had also accepted your version of events in relation to Charge 2, which you had put forward at the outset of the hearing.*
- The submission of your most recent written reflection (submitted on 3 January 2025) indicates that your insight is developing.*

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the nature and 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 nature and seriousness of the case an order that does not restrict your 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 your 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 your 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;*
- *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 gave careful consideration to Ms Robinson's submissions and suggestions of conditions to address information governance. However, the panel acknowledged that you had been a nurse with a career spanning over 25 years and had completed your mandatory training (which included information governance) at the time the misconduct took place. The panel determined that the misconduct identified in this case was not related to your competencies but was a serious lapse in judgment during a difficult period in your life due to prevailing family matters. The panel was of the view that there are no practical or workable conditions that could be formulated to address the attitudinal nature of the concerns.

Furthermore, the panel concluded that the placing of conditions on your 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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel acknowledged that confidentiality, trust, dignity and respect are rooted within the Code. Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. The panel gave careful consideration whether your actions in these circumstances amounted to being fundamentally incompatible with remaining on the register.

The panel acknowledged that this was a single event which took place on three separate occasions on consecutive days, pertaining to one person, and [PRIVATE]. The panel noted that your actions amounted to a serious error in your judgment, one which affected not only Patient A but also [PRIVATE]. The panel took into account your long and previously unblemished career as a nurse and the testimonials from current colleagues. It also took account of your willingness to engage and your developing insight, including your recent reflective piece which said:

'I broke that trust to the detriment of him and others who expect better of the nursing profession. I sincerely hope that this remains a one-off incident in my career, if at any time I find myself in a position where I am feeling too emotional I will seek the support of a colleague and ask them to take over the care. I will cooperate with the NMC and others to return to the high standards of practice expected of me.'

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. In addition, the panel noted that it has been five years since the incident and this, together with your developing insight, satisfied the panel that you do not pose a significant risk of repeating the harm.

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 your 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. In the panel's careful regard to the NMC Guidance, the panel found no evidence of deep-seated attitudinal issues (although it accepted that there were elements of attitudinal concerns at the time of the incidents), no evidence of repetition since the event, and your developing insight, the panel was satisfied that a suspension order would protect the public and satisfy the wider public interest.

The panel noted the hardship such an order will inevitably cause you. 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.

In making this decision, the panel carefully considered the submissions of Ms Carver in relation to the sanction that the NMC was seeking in this case. The panel took the view that a striking off order would be wholly disproportionate given that you have demonstrated developing insight during the course of these proceedings.

The panel determined that a suspension order with a review for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct.'

NMC Position

At the outset of the hearing Mr Convery, who appeared for the NMC, informed the panel that this was an early review brought under Article 30(2) of the Nursing and Midwifery Order 2001. The early review was sought on the mistaken basis that it was competent to seek a revocation of the existing suspension order.

The NMC have issued guidance on 'Removal from the Register when there is a substantive order in place' (REV-2h). It suggests that, in some circumstances, it is possible to remove a nurse who has no intention of returning to practise by revoking the existing order.

Mr Convery submitted that, in this case, it would not be possible for this route to be followed. It could only be followed if the 'professional would no longer be on the register but for the order in place'. However, this is not a situation where revoking the order would result in you being removed from the register. The NMC records disclosed that you are currently on the register and that your subscription will expire on 31 August 2025.

It was a matter of regret that, for these reasons, the NMC could not support an application for the revocation of the order.

You accepted that Mr Convery provided an accurate statement regarding the procedure and made no formal submissions in support of revocation.

The panel heard and accepted the advice of the legal assessor and began by considering the issue of current impairment

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired.

The panel had regard to the NMC guidance which states, *'the question that will help decide whether a professional's fitness to practise is impaired is: Can the nurse, midwife, or nursing associate practise safely, kindly 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, your written representations and oral evidence.

It has taken account of the submissions made by Mr Convery on behalf of the NMC. He submitted that your fitness to practise remains impaired.

Mr Convery further submitted that there is insufficient evidence before today's panel, since the order was imposed, that demonstrates that you have reflected, remediated or undertaken training to address the areas of concern. This includes evidence of professional development, retraining or strengthening of practice. Mr Convery therefore submitted that you are liable to repeat matters of the kind found proved. He submitted that a finding of continuing impairment is necessary on the grounds of public protection and public interest.

Mr Convery addressed the panel on the appropriate sanction. Mr Convery submitted that you consider yourself to be retired from nursing, have no intention of returning to the profession and want to be removed from the register. He informed the panel that you have requested to be removed from the register.

Mr Convery submitted that the NMC would not ordinarily oppose the option of allowing the order to lapse upon its expiry. However, he submitted that because you currently remain on the register and are up to date with your annual subscription, the NMC are currently unable to proceed with allowing the order to lapse and that the removal from the register could not be completed today.

Mr Convery therefore invited the panel to allow the existing suspension order to continue on the grounds of public protection and in the public interest.

The panel also had regard to your written representations and oral submissions. You submitted to the panel that you considered yourself to be retired and are no longer

interested in pursuing a career in nursing. You requested that today's panel allow the order to lapse so that you can be removed from the register.

In response to a question from the panel on whether you were opposed to the order continuing, you explained that you believed that you have gained insight and integrity since the current order was imposed. You submitted that you have dedicated your life to the nursing profession and that you want to be able to put this matter behind you.

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 understood the reasoning for your request to allow the order to lapse so that you could be removed from the register, as you have made the decision to retire and have stopped working within the nursing profession.

However, the panel determined that this hearing was convened on the basis that you have retired and, as such, were not representing that you are no longer impaired. As such, the panel determined that you have not been able to demonstrate any further remediation or strengthening of practice. There was insufficient evidence before it today to show that you have addressed the concerns raised by the previous panel to develop insight into your misconduct, and therefore, there remains a risk of harm.

In light of the fact that you have not overcome the persuasive burden of demonstrating that you are no longer impaired, the panel finds that your fitness to practise remains impaired for the same reasons as the original panel.

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(4) 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 had regard to the previous findings on impairment in coming to this decision. It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel bore in mind that the original panel found that you had limited insight and imposed a 12 month suspension order to appropriately satisfy public protection and the public interest in this case.

The panel heard that you considered yourself retired from nursing. It also noted that you have clearly indicated on a number of occasions, including today through your oral responses, that you no longer want to continue your career in nursing and consider yourself to be retired. The panel accepted that you have demonstrated a clear and settled intention to retire and leave the nursing profession. It determined that removal from the register cannot be completed today as you remain on the register until 31 August 2025.

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 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 your 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 your 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. It also decided that Conditions of Practice would not be relevant as it could not formulate any conditions given that you have clearly indicated your wish to retire and no longer want to pursue a career in nursing.

The panel considered that the appropriate step was to confirm the existing suspension order. It was of the view the current suspension order would allow you further time to discuss your application for removal from the register with the NMC. The panel concluded that confirmation of the current suspension order would be the appropriate and proportionate response.

The panel therefore determined that the confirmation of the current suspension order, for the remainder of 12 months with review, is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest.

This confirmation order will take effect immediately in accordance with Article 30(4)(a).

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.

This will be confirmed to you in writing.

That concludes this determination.