Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Order Review Meeting
Wednesday 24 September – Thursday 25 September 2025

Virtual Meeting

Name of Registrant:	Michael Anthony Caffrey
NMC PIN:	87A0376E
Part(s) of the register:	Registered Nurse - Sub Part 1 Mental Health Nurse (Level) 1 – 23 January 1998 Registered Nurse - Sub Part 2 Mental Health Nurse (Level 2) – 9 April 1991
Relevant Location:	Greater Manchester
Type of case:	Misconduct/Lack of competence
Panel members:	David Hull (Chair, Lay member) Zoe Wernikowski (Registrant member) Sam Wade (Lay member)
Legal Assessor:	Tracy Ayling KC
Hearings Coordinator:	Rene Aktar
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	**Order to lapse upon expiry in accordance with Article 30 (1), namely 7 November 2025**

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 Mr Caffrey's registered email address by secure email on 22 July 2025.

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 22 September 2025 and inviting Mr Caffrey 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 Mr Caffrey 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 allow the order to lapse upon expiry. This will come into effect at the end of 7 November 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fourth review of a substantive conditions of practice order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 12 October 2022. This was reviewed on 8 February 2023 where the panel decided to vary and extend the conditions of practice order for a further 9 months. There were two further reviews held on 2 October 2023 and 6 November 2024 where the panel decided to vary and extend the current conditions of practice order for a further period of 12 months.

The current order is due to expire at the end of 7 November 2025.

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, a registered nurse at Deepdene Care Home between April 2019 and July 2019:

1. *Failed to manage and / or administer resident medications safely in that you;*
    a) *Administered medication to Resident A without checking the EMAR (Electronic Medication Administration Record) to ensure the correct dose and / or that the medication continued to be prescribed;*
    b) *Failed to administer medications at the time prescribed to one or more of the residents at Schedule 1, despite clear instruction to do so;*
        i. *Schedule 1:*
            1. *Resident A*
            2. *Resident B*
            3. *Resident C*
            4. *Resident D*
            5. *Resident E*
            6. *Resident F*
            7. *Resident G*
            8. *Resident H*

    c) *Conducted secondary dispensing of medication in the absence of Resident A leaving the dispensed medication in a cupboard with the potential to put Resident A at risk.*

2. *Failed to follow reasonable management instructions;*
    a) *Failed to update and evaluate resident care plans despite express instruction to do so during supervision;*
    b) *Failed to conduct supervision of allocated key workers;*
    c) *Failed to take up mandatory and other training when expressly told to do so;*

d) Failed to achieve a satisfactory level of competence in the safe administration and management of medications despite more than one attempt;

e) Failed to take a nursing handover despite being the only registered nurse coming on duty leaving the facility without a qualified nurse and reducing the staffing compliment [sic] during your absence;

f) Failed to give a sufficient level of detail when giving handover to staff and thereafter on the completed handover sheet, in particular, failing to notify of the potential risk posed by Resident I arising from his behaviours with the potential to put residents and/or staff at risk.

3. Knowingly administered medications to residents when you were expressly restricted from doing so independently until assessed safe to do so.

And, in light of the above your fitness to practise is impaired by reason of your misconduct at charges 1, 2 and 3 above and/or by reason of your lack of competence at charge 2d above.'

The previous reviewing panel determined the following with regard to impairment:

'The panel noted that the last reviewing panel found that you showed some insight as you still admitted to the allegations made and have complied with the conditions of practice that were in place by informing the NMC about changes to your employment. However, the last reviewing panel also noted that, when questioned during the course of that hearing about how you would handle the situation differently in the future, you were not able to provide sufficiently detailed answers.

The last reviewing panel determined that you remained liable to repeat matters of the kind found proved. Today's panel determined they have not received any new information which demonstrates insight or remediation from you. The panel accepted that a Personal Development Plan (PDP) would prove difficult to produce given your lack of employment. The panel considered that you have not provided a reflective piece detailing any insight or contextual information surrounding the regulatory concerns. The panel also determined that you have not shown any

evidence of strengthening your practice which you could have undertaken despite your lack of employment, such as retraining.

In light of this, this panel determined that you remain liable to repeat matters of the kind found proved. The panel concluded that the concerns remain and are heightened given the time you have been out of nursing practice for. The panel therefore decided that a finding of continuing 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 continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.'

The last reviewing panel determined the following with regard to sanction:

'It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection as well as public interest concerns 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 imposing a varied conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel noted Mr Hamlet's submission that some conditions in your current conditions of practice order may have prevented you from obtaining employment as a registered nurse. The panel varied the conditions of practice order based on the limited information before it. The panel also considered your continued engagement with the NMC, as well as your desire to return to your nursing practice.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest, noting as the previous panels noted that there was no evidence of no deep-seated attitudinal problems. The panel concluded there are conditions which could be formulated which would address the concerns during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case as you continue to engage with the NMC and have expressed a desire to return to your nursing practice.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to extend the conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 7 November 2023.

It decided to vary and extend the following conditions which it considered are appropriate and proportionate in this case:

> *For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.*
>
> *1. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision*

must consist of working at all times on the same shift as, but not always directly observed by, a registered nurse.

2. *You must not administer medication unless directly supervised by another registered nurse (except in life threatening emergencies) until you are deemed competent to do so by your supervisor.*

3. *You must work with your line manager, mentor, or supervisor (or their nominated deputy) to create a Personal Development Plan designed to address the concerns about the following areas of your practice:*

   a) *Timeliness of medication administration.*
   b) *Handovers to ensure relevant risks are shared appropriately with other members of staff.*
   c) *Evaluation and maintenance of up-to-date care plans.*

4. *You must meet with your line manager, mentor, or supervisor (or their nominated deputy) monthly to discuss your clinical case load, the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan.*

5. *You must send a copy of your Personal Development Plan and a report from your line manager, mentor, or supervisor (or their nominated deputy) setting out the standard of your performance before any NMC review hearing or meeting with particular reference to:*

   a) *Timeliness of medication administration.*
   b) *Handovers to ensure relevant risks are share appropriately with other members of staff.*

c) *Evaluation and maintenance of up-to-date care plans.*

6. *You must keep us informed about anywhere you are working by:*
   a) *Telling your case officer within seven days of accepting or leaving any employment.*
   b) *Giving your case officer your employer's contact details.*

7. *You must keep us informed about anywhere you are studying by:*
   a) *Telling your case officer within seven days of accepting any course of study.*
   b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

8. *You must immediately give a copy of these conditions to:*
   a) *Any organisation or person you work for.*
   b) *Any agency you apply to or are registered with for work.*
   c) *Any employers you apply to for work (at the time of application).*
   d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
   e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.*

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

a) Any clinical incident you are involved in.
b) Any investigation started against you.
c) Any disciplinary proceedings taken against you.

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

The period of this order is for 12 months. The panel was of the view that this would give you sufficient time to find a nursing role and demonstrate that you have strengthened your practice in the areas of concern.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Caffrey'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 ability to practice 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 that there was no evidence before it to demonstrate Mr Caffrey's compliance with the substantive conditions of practice order, and nor had he provided any reflective pieces, testimonials or references. In the absence of such information, the panel considered that there remains a risk of repetition.

The panel noted that the original panel found that Mr Caffrey had insufficient insight. At this meeting the panel determined that there had been no new information provided to suggest that Mr Caffrey has developed his insight, nor has he demonstrated remorse.

In its consideration of whether Mr Caffrey has taken steps to strengthen his practice, the panel took into account that the last information supplied to the NMC is that Mr Caffrey is currently not working in a nursing role.

Therefore, Mr Caffrey remained liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel therefore decided that a finding of continuing 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 continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Caffrey'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 took particular note of the NMC Guidance REV-2h:

‘This guidance is intended to help substantive order review panels decide what action to take where

- *a professional hasn’t addressed outstanding fitness to practise concerns, and*
- *continuing/imposing a conditions of practice order or suspension order is unlikely to mean the professional will return to safe unrestricted practice within a reasonable period of time.*

There is a persuasive burden on the professional at a substantive order review to demonstrate that they have fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments.

While Suspension Orders and Conditions of Practice Orders can be varied or extended, they are not intended to exist indefinitely. In time the professional must be allowed to practise without restriction or they must leave the register. It is neither in the interests of the public nor the professional’s own interests that they are kept in limbo.

Professionals who are not subject to fitness to practise proceedings have to revalidate every three years to stay on the register. In many cases it will be more appropriate for a professional to leave the register if they have been on a substantive order for this period of time and remain impaired.

2. Lapse with impairment

- *Where the professional would no longer be on the register but for the order in place, a reviewing panel can allow the order to expire or, at an early review, revoke the order. Professionals in these circumstances will automatically be removed from the register, or lapse, upon expiry or revocation of the order. The panel will record that the professional remains impaired.*
- *A panel will allow a professional to lapse with impairment where:*
- *the professional would no longer be on the register but for the order in place;*
- *the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*

- *a striking off order isn't appropriate.*
- *Whilst the intentions or wishes of the professional do not determine whether they should be allowed to lapse, a professional who would no longer be on the register but for the order in place can themselves request an early review to ask that the order is removed.*
- *Panels should be considering lapse with impairment even where the reason for a professional's lack of progress is outside their control. What matters is whether such issues are likely to be resolved in a reasonable period of time.*
- *Circumstances where lapse with impairment is likely to be appropriate include where*
- *a professional has shown limited engagement and/or insight, but this is reasonably attributable to a health condition; or*
- *there has been insufficient progress*
    - *in cases involving health or English language; or*
    - *in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g. health, immigration status, the ability to find work or other personal circumstances).'*

The panel considered that it would be inappropriate to impose a further conditions of practice order because this would leave Mr Caffrey in limbo, and the panel concluded that a suspension order and striking-off order to be disproportionate.

The panel noted that Mr Caffrey's nursing registration only remained active due to the existence of the current conditions of practice order. It noted that Mr Caffrey had not revalidated or renewed his nursing registration, and therefore he was only held on the register by virtue of these continuing fitness to practise proceedings. The panel therefore noted that if the current substantive order were to lapse, Mr Caffrey's nursing registration would immediately lapse, and he would be removed from the register.

The panel noted that whilst Mr Caffrey had previously engaged with the regulatory process and participated in hearings, this engagement has now ceased.

At the last review in 2024, Mr Caffrey simply informed that panel that there had been no changes to his circumstances in the last twelve months. No further information was received.

At this review, there has been nothing at all received from Mr Caffrey.

The panel has concluded that Mr Caffrey has not made any progress in further developing his insight, remediating his failings or strengthening his practice since the conditions of practice order was first imposed, almost three years ago.

In light of the above, the panel considered that Mr Caffrey had provided clear information that he is currently not working in a nursing role. It noted that if Mr Caffrey did decide to change his mind, he would have to apply for readmission on to the NMC's register. If he did so, the Registrar would have this panel's decision regarding Mr Caffrey's current impairment made available. The panel was satisfied that such a safeguard would also protect the public should Mr Caffrey decide to apply for readmission on to the register in the future.

The panel was satisfied that it would be in the wider public interest to allow the current order to lapse. It was satisfied that the public interest had been served by the previous three conditions of practice orders. In addition, allowing the current order to lapse with a finding of impairment would ensure that the public are protected and such action would uphold confidence in the nursing profession and in the NMC as a regulator.

The panel therefore determined that it would be appropriate and proportionate to allow the current substantive order to lapse with a finding of impairment.

The panel therefore determined, in accordance with Article 30(1) of the Order, to allow the current conditions of practice order to lapse on expiry, namely at the end of 7 November 2025.

This decision will be confirmed to Mr Caffrey in writing.

That concludes this determination.