

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

**Substantive Order Review Hearing
Wednesday, 03 September 2025**

Virtual Hearing

Name of Registrant:	Kirsty Victoria James
NMC PIN:	18G0079W
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing - October 2018
Relevant Location:	Swansea Bay
Type of case:	Misconduct
Panel members:	Mandy Elizabeth Rayani (Chair, registrant member) Catherine Becket (Lay member) Gillian Tate (Registrant member)
Legal Assessor:	Richard Ferry-Swainson
Hearings Coordinator:	Andrew Ormsby
Nursing and Midwifery Council:	Represented by Michael Smalley, Case Presenter
Mrs James:	Not present and unrepresented
Order being reviewed:	Conditions of practice order (24 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (4 months) to come into effect on 10 October in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs James was not in attendance and that the Notice of Hearing had been sent to Mrs James' registered email address by secure email on 5 August 2025.

Mr Smalley, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs James' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all the information available, the panel was satisfied that Mrs James has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs James

The panel next considered whether it should proceed in the absence of Mrs James.

The panel had regard to Rule 21 and heard the submissions of Mr Smalley who invited the panel to continue in the absence of Mrs James. He submitted that the NMC had made efforts to secure her attendance and that Mrs James had disengaged with the NMC and has voluntarily absented herself from these proceedings.

Mr Smalley stated that the NMC had further emailed Mrs James yesterday, on 2 September 2025, and that efforts had also been made to telephone Mrs James this morning, using numbers obtained from the register, but noted that this was not successful.

Mr Smalley stated that adjourning today would simply frustrate the regulatory process for reviewing this order, which is designed to protect the public and maintain public confidence in the profession.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mrs James. In reaching this decision, the panel has considered the submissions of Mr Smalley and the advice of the legal assessor. It has had regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Mrs James had received good notice of the hearing today;
- Mrs James had been given the opportunity to inform the panel as to her attendance today;
- No application for an adjournment has been made by Mrs James;
- Mrs James has not engaged with the NMC and the panel decided that she had therefore voluntarily absented herself from these proceedings;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- There is a strong public interest in the expeditious review of the case; and
- It is in Mrs James' own interests that an order restricting her practice be reviewed.

The panel also considered that efforts have been made by the NMC to facilitate Mrs James' attendance at this hearing.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs James.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a four-month suspension order.

This order will come into effect at the end of 10 October 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 24 months by a Fitness to Practise Committee panel on 12 September 2023.

The current order is due to expire at the end of 10 October 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

1. Accessed Patient B's records without authority and / or clinical reason on 1 August 2020.

2. Accessed Patient C's records without authority and / or clinical reason on one or more of the following dates:

a) 22 October 2019

b) 24 July 2020

c) 1 August 2020

3. Accessed Patient D's records without authority and / or clinical reason on one or more of the following dates:

a) 1 August 2020

b) 2 August 2020

4. Between 24 November 2020 to 25 November 2020 attended work and you subsequently became disorientated whilst on shift as a registered nurse as you:

[...]

k) Left the care home without completing your scheduled shift;

l) Left the care home without adequate nursing cover.

5. Between 22 November 2020 and 23 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A*
- b) Resident C*
- c) Resident D*
- [...]*
- e) Resident F*
- f) Resident G*
- g) Resident H*
- h) Resident I*
- [...]*
- j) Resident K*
- k) Resident L*
- l) Resident M*

6. Between 23 November 2020 and 24 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A*
- b) Resident C*
- c) Resident D*
- [...]*
- e) Resident F*
- f) Resident G*
- g) Resident H*
- h) Resident I*
- i) Resident J*
- j) Resident K*
- k) Resident L*
- l) Resident M*

7. Between 24 November 2020 and 25 November 2020 failed to complete evaluation sheets for one or more of the following residents:

- a) Resident A
- b) Resident C
- c) Resident D
- d) Resident E
- e) Resident F
- f) Resident G
- g) Resident H
- h) Resident I
- i) Resident J
- j) Resident K
- k) Resident L
- l) Resident M

8. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident P:

- a) Actagain
- b) Laxido

9. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident N:

- a) Ventolin
- b) Paracetamol
- c) Promazine
- d) Trimethoprim
- e) Loperamide

10. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident B:

- a) Laxido
- b) Senna
- c) Duloxetine
- d) Lorazepam

11. On 24 November 2020 failed to administer 10mg of controlled drug Zomorph at bedtime to Resident B.

12. On 24 November 2020 failed to ensure that doublebase Gel was administered at bedtime to Resident B.

13. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident Q:

- a) Latanoprost
- b) Amitriptyline
- c) Apixaban

14. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident R:

- a) Zapain
- b) Peptac
- c) Senna

15. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident O:

- a) Peptac;
- b) Salbutamol;
- c) Paracetamol;
- d) Lorazepam.

16. On 24 November 2020 failed to ensure that Conotrane cream was administered at bedtime to Resident O.

17. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident T:

- a) Senna
- b) Travoprost

18. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident U:

- a) Tegretol;
- b) Paracetamol.

19. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident D:

- a) Mirtazapine;
- b) Promethazine.

20. On 24 November 2020 failed to ensure that Corsodyl mouthwash was administered to Resident D at bedtime.

21. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident C:

- a) Senna;
- b) Paracetamol.

22. On 24 November 2020 failed to ensure that Nutilis was administered to Resident C at bedtime.

[...]

24. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident E:

- a) Paracetamol;
- b) Senna;
- c) Atorvastatin.

25. On 24 November 2020 failed to administer paracetamol bedtime medication to Resident F.

26. On 24 November 2020 failed to ensure that Nutilis was administered at bedtime to Resident F.

27. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident V:

- a) Paracetamol;
- b) Laxido;
- c) Reletrans.

28. On 24 November 2020 failed to ensure that Actagain was administered at bedtime to Resident V.

29. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident G:

- a) Senna;
- b) Paracetamol

30. On 23 and/or on 24 November 2020 failed to administer one or more of the following bedtime medication to Resident A:

- a) Atorvastatin;
- b) Carbocisteine;
- c) Amoxicillin

31. On 24 November 2020 failed to administer 5mg and/or 20mg controlled drug Longtec at bedtime to Resident A.

32. On 24 November 2020 failed to administer paracetamol bedtime medication to Resident H.

33. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident I:

- a) Laxido;
- b) Paracetamol.

34. On 24 November 2020 failed to ensure that Medi Derma-S barrier cream was administered to Resident I.

35. On 24 November 2020 failed to administer simvastatin bedtime medication to Resident W.

36. On 24 November 2020 failed to administer one or more of the following bedtime medication to Resident L:

- a) Paracetamol;
- b) Senna.

37. On 24 November 2020 failed to administer one or more of the following controlled drug at bedtime to Resident L:

- a) 30mg of Zomorph;
- b) 10mg of Oramorph.

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 finds that patients were put at risk of harm as a result of your misconduct. It found by leaving the Home without adequate nursing cover you placed residents at the Home at a real risk of harm. Further, the numerous medication administration and record keeping failures directly impact on patient care and therefore placed them at a risk of harm.

The panel found that your actions in breaching the confidentiality of patient records have breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel was mindful of the circumstances of the Covid-19 pandemic. However, no evidence was put before the panel in relation to the professional impact on you. Specifically, it did not have evidence of your working hours, shift patterns and isolation policies within the Home.

Further, the panel noted that you explained that the contextual factors which were present at the time of the incident, [PRIVATE]. [PRIVATE].

Regarding insight, the panel took into account that you have made admissions to the charges. The panel also heard from you during the hearing, and you described your actions as “stupid”.

However, the panel found that there were limitations to the level of insight shown by you within your reflective piece. It was not satisfied that you sufficiently demonstrated that you understand the seriousness of breaching the confidentiality of patient records and the negative impact this may have on public confidence and trust in the profession. It has not heard from you that you understand the importance of patient confidentiality and why it is important to at all times maintain and respect this fundamental tenet of the nursing profession. Further, in relation to the absence of the previous contextual factors and how you propose to handle such matters going forwards, the panel did not hear information from you about specific mechanisms you have in place or will implement to ensure a repeat of your failures would not occur.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to remediate and strengthen your practice. The panel has not seen evidence of any training undertaken by you which addresses the concerns in this case. It noted that you explained that you have applied for some job roles within a healthcare setting, but it noted that there was not any evidence before it in support of any applications you have made. It found that there was a lack of specificity from you in relation to any applications you have made. The panel had regard to the character references dated 1 August 2023 and 20 August 2023, but it found that these were of limited value.

Based on the limitations in your reflective piece and the panel’s finding that there is a lack of assurance that your actions would not be repeated, the

panel determined that you are liable to put patients at a risk of harm in the future. It was not satisfied based on the information it has heard that you are able to ensure that you will prevent a reoccurrence of your failures. The panel therefore determined that there is a risk of repetition and 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.

The panel determined that a finding of impairment on public interest grounds is required because it concluded that a fully informed member of the public would be concerned to learn that you were allowed to practise unrestricted. 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 finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that you are not able to practise safely, kindly and professionally without restriction and therefore concluded that your fitness to practise is currently impaired.'

The original 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 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 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.*

It considered whether it was satisfied that, based on the information it has heard, the public would be protected, and the wider public interest would be met by the imposition of a conditions of practice order. The panel was of the view that your actions were wholly unacceptable and placed patients at a risk of harm. It found that as a registered nurse who qualified in 2018, you would be expected to be familiar and have a clear understanding of the ethics and responsibilities of a registered nurse. Further, it was of the view that you, as a recently qualified registered nurse, should have been able to demonstrate the required capabilities.

However, the panel took into account [PRIVATE]. [PRIVATE].

The panel would have been assisted by some evidence of your attempts to strengthen your practice and demonstrate training or independent learning undertaken by you since the time of these incidents. However, the panel noted your comments in your reflective piece where you state:

“[PRIVATE]. I do however appreciate I could have spent time to keep up to date with training. I apologise for not having used my time more efficiently and completed courses around my failings”.

The panel found that you acknowledge that there are areas of concern in your nursing practice but that there is a preparedness and a willingness to address these going forward. Further, the panel determined that, whilst there is no evidence of harmful deep-seated personality or attitudinal problems or general incompetence, there are however identifiable areas of your practice in need of assessment and/or retraining.

Based on all of the above, the panel determined that it would be possible to formulate appropriate, measurable, workable and realistic conditions which would address the failings highlighted in this case and suitably protect the public. Further, the panel was satisfied that the public interest is served by allowing you to return to nursing practice. It determined that this provides you with an opportunity to demonstrate that you have the right attitude, discipline and capabilities to provide safe, kind and professional nursing practice.

The panel also noted that a conditions of practice order would support your return to nursing practice and support the development of your nursing career. The panel accepted that the submissions made on your behalf that you would be willing to comply with conditions of practice.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case.

Having regard to the matters identified in this case, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Kabasinkas in relation to the sanction that the NMC was seeking in this case. However, the panel carefully considered a suspension order, and it determined that a further period of suspension would not serve any useful purpose given the circumstances of this case.

[PRIVATE]. The panel found that a conditions of practice order would allow you to move forward and work on professional development in your nursing career.

The panel determined that the following conditions 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 a registered nurse anytime 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 of band 6 or above.*

2. You must work with your line manager to create a personal

development plan (PDP). Your PDP must address the concerns about relating to the following areas:

- Record keeping*
- Medication administration*
- Your understanding on the importance of data protection*
- Nursing ethics and responsibilities of professional practice and the standards required of a nurse as identified in the Code*

You must send your case officer a copy of your PDP before the next review of this case. This report must show your progress towards achieving the aims set out in your PDP.

3. You must engage with your line manager to ensure that you are making progress towards aims set out in your personal development plan (PDP), this includes:

- Meeting with your line manager on a monthly basis to discuss your progress towards achieving the aims set out in your PDP.*

4. You must attend a course which covers patient confidentiality and data protection. You must provide evidence of completion of this course before the next review of this case.

5. You must produce a reflective piece before the next review of this case which addresses personal research you have undertaken and your understanding of nursing ethics and responsibilities of professional practice and the standards required of a nurse as identified in the Code

6. You must keep the NMC 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 the NMC 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.*

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 two years.

[...]

Any future panel reviewing this case would be assisted by:

- *Evidence of testimonials from any recent employment paid or otherwise.*
- *In the event that you have not secured employment by the time of the next review, evidence of your efforts to secure employment and progress made in your professional development including evidence of completion of any courses.*

This will be confirmed to you in writing.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs James' fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle, and correspondence from the Royal College of Nursing (RCN) stating that they were no longer acting for Mrs James. It has taken account of the submissions made by Mr Smalley on behalf of the NMC. He submitted that Mrs James had disengaged from the NMC and the regulatory process and, but for these proceedings, she would no longer be on the register.

In relation to Mrs James' registration, Mr Smalley submitted that it was not appropriate in this case to allow Mrs James' registration to lapse given her lack of engagement and insight.

Mr Smalley submitted that, given Mrs James' non-engagement the extension of a conditions of practice order would not be appropriate

Mr Smalley stated that, in the circumstances, the panel should choose between a suspension order with a further review, or the imposition of a striking off order based on Mrs James' lack of engagement over the last two years.

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 James' fitness to practise remains impaired.

The original panel found that Mrs James had shown evidence of insight in that she had made admissions at the outset of the hearing but also considered that there were limitations to this insight as evidenced in her reflective piece. The original panel also found that there was a lack of assurance that Mrs James' actions would not be repeated.

Today's panel noted that Mrs James had not engaged with the NMC since the substantive hearing nearly two years ago, had allowed her revalidation to expire, and had not provided any evidence that she had complied with the conditions of practice order. It also bore in mind that Mrs James had provided no further evidence of insight or remediation or any new information whatsoever.

Further, the panel was also mindful of the fact that there was a persuasive burden on Mrs James to prove that she was no longer impaired. The panel also had regard to the case of *Abrahaem v GMC* [2008] EWHC 183 (Admin), in which Blake J described the procedure as 'an ordered sequence of decision making'. The panel must first address whether fitness to practise is impaired before considering further sanction. In doing so:

'the review has to consider whether all the concerns raised in the original finding of impairment through misconduct have been sufficiently addressed to the Tribunal's satisfaction. In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional

performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments.'

In light of this, this panel could not be satisfied that Mrs James is now not liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment was necessary on the grounds of public protection.

The panel has also 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. This is because public confidence in the nursing profession would be undermined if no finding of impairment were made in a case involving widespread clinical failings, with no evidence that they had been remedied and whereby the nurse in question continues to present a risk of harm to the public.

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

Decision and reasons on sanction

Having found Mrs James' 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 accepted the advice of the legal assessor.

In coming to its decision the panel had regard to its findings on impairment.

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 considered that taking no further action would be neither appropriate nor proportionate taking into account the public protection concerns and the need to uphold the wider public interest in this case.

The panel considered that a caution would not be appropriate given the risk of repetition and risk to patients and would not protect the public.

The panel also agreed with the NMC position that it was inappropriate to allow Mrs James' registration to lapse given her lack of engagement.

The panel considered that extending Mrs James' conditions of practice order was not appropriate as Mrs James had effectively not engaged with the NMC or provided any evidence of compliance with the order, and, as such, imposing further conditions would not be workable or appropriate.

In the circumstances, the panel determined that an order of suspension was necessary to protect the public and satisfy the public interest.

The panel considered that a short period of suspension would afford Mrs James the opportunity to re-engage with the NMC, if she wished to do so. The panel also considered that a period of suspension would give Mrs James time to provide reflections on her misconduct and would allow her to undertake further relevant Continuing Professional Development (CPD).

Accordingly, the panel determined that a suspension order for a period of four months was the necessary and proportionate sanction to reflect the need for Mrs James to re-engage with the NMC and to demonstrate remediation.

The panel did consider whether it would be appropriate to make a striking off order in light of the complete lack of engagement by Mrs James since the substantive hearing.

However, it decided such a course would be disproportionate at this time, given that the misconduct is remediable, provided Mrs James shows some commitment and a desire to return to nursing.

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:

- Engagement with the NMC proceedings and attendance at the review hearing;
- Reflections from Mrs James on her misconduct and information about her intentions regarding her nursing career; and
- Evidence of relevant CPD.

The panel determined to impose an order of suspension for a period of four months.

This order will come into effect at the end of 10 October 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This will be confirmed to Mrs James in writing.

That concludes this determination.