

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

**Substantive Order Review Meeting
Thursday 30 November 2023**

Virtual Meeting

Name of Registrant: Lesley Kim Parton

NMC PIN 7510140E

Part(s) of the register: Registered Nurse – Mental Health Nursing (April 1977)

Relevant Location: Oxfordshire

Type of case: Misconduct

Panel members: Dave Lancaster (Chair, Lay member)
Claire Matthews (Registrant member)
Suzanna Jacoby (Lay member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Zahra Khan

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (6 months) to come into effect at the end of 17 January 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 Parton's registered email address on 23 October 2023.

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 November 2023 and inviting Mrs Parton 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 Parton 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 conditions of practice order for a period of 6 months. This order will come into effect at the end of 17 January 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 conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 20 December 2022.

The current order is due to expire at the end of 17 January 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 11 February 2019:*

- a) did not assist in the management and/or restraint of Resident C when it would have been clinically appropriate to do so. **[Charge found proved]***
- b) did not press the emergency button or pull the emergency cord to call for help in dealing with Resident C when it would have been clinically appropriate to do so. **[Charge found proved]***
- c) did not call the police in response to Resident C’s aggression when his care plan indicated the police should be called. **[Charge found proved]***

2) *On 29 March 2019:*

- a) asked Colleague A to restrain Resident A when you knew Colleague A was not trained to do so. **[Charge found proved]***
- b) shouted at or, in the alternative, raised your voice at Colleague A when she:
 - i) refused to restrain Resident A due to her lack of training. **[Charge found NOT proved]***
 - ii) stopped providing reassurance to Resident A in the light of Resident A’s aggressive response to a tissue viability assessment you had arranged. **[Charge found NOT proved]****
- c) did not record that Resident A had been subject of a restraint. **[Charge found proved]***

3) *On 07 May 2019:*

- a) did not administer medication to Resident B when it would have been clinically appropriate to do so. **[Charge found proved]***
- b) asked Colleague B to count out a resident’s ‘To Take Out’ medication when she was not qualified to do so. **[Charge found proved]***

c) left a resident's 'To Take Out' medication with Colleague B when she was not qualified to be left with medication and when no qualified member of staff was on shift to supervise. **[Charge found proved]**

d) left the Acorn Unit unattended. **[Charge found NOT proved]**

4) On 11 May 2019, instructed that Resident A should be assisted to shower by 2 care assistants contrary to her care plan which required 3 members of staff.

[Charge found proved]

5) On 12 May 2019, left Resident B's medication with Colleague B when she was not qualified to be left with medication. **[Charge found proved]**

6) On 16 May 2019:

a) did not administer Resident E's full teatime dose of Lamotrigine.

[Charge found NOT proved]

b) did not administer prescribed medication to Resident B or, in the alternative, did not record that you had administered said medication.

[Charge found proved in respect of not recording]

7) On 28 May 2019, having dropped a quantity of Resident B's medication, did not dispose of and re-dispense his medication. **[Charge found proved]**

8) On an unknown date, did not assist care staff with Resident D's personal care when it would have been clinically appropriate to do so in the light of him having soiled himself. **[Charge found NOT 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 found that Mrs Parton has in the past placed service users and colleagues at unwarranted risk of harm. Her failings encompassed basic aspects of nursing practice and a failure to comply with care plans and several policies designed to maintain safety of service users and colleagues. The panel found that Mrs Parton breached fundamental tenets of the nursing profession in failing to ensure safe and effective care. The panel determined that every charge found proved carries with it the risk of harm to patients or members of staff. The panel therefore found that her failings brought the nursing profession into disrepute. The panel was of the view that although the misconduct found proven is remediable, it had no evidence before it to demonstrate that it has been remedied. The panel noted that Mrs Parton had been subject to a previous referral and included in that referral was a concern relating to record keeping and medication. The panel was aware that the previous referral did not result in a finding of impairment in light of her insight and remediation at that time.

The panel had sight of the reflective piece provided by Mrs Parton in respect of the current charges, in which she has shown limited insight. It noted that the reflection was written by Mrs Parton in September 2019 and does not sufficiently address the concerns and focuses mainly on the impact on herself rather than service users, colleagues or the public. Further, the panel noted that it had not been provided with any recent reflection or testimonials from Mrs Parton. The panel could therefore not be satisfied from the limited evidence it had received that Mrs Parton fully understands and appreciates the extent of her actions.

On balance, the panel had insufficient evidence before it to allay its concerns that Mrs Parton may currently pose a risk to patient safety. In the absence of full insight and steps taken to strengthen her practice, it considered there to be a risk of repetition of her past conduct, and a risk of unwarranted harm to patients in her care should she return to nursing practice without adequate safeguards in place. 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/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 determined that, in this case, a finding of impairment on public interest grounds was also required. It was of the view that a member of the public would expect a finding of impairment given the panel's findings in relation to misconduct, the lack of evidence of full insight and sufficient effective measures she has taken to strengthen her practice to address the identified concerns. The panel concluded that public confidence in the profession would be undermined if a finding of impairment on public interest grounds were not made in this case.

Having regard to all of the above, the panel was satisfied that Mrs Parton's fitness to practise is currently impaired on both public protection and public interest grounds."

The original panel determined the following with regard to sanction:

"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 and public interest issues identified, an order that does not restrict Mrs Parton'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 Parton'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 Parton'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's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- 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 found that Mrs Parton's practice was impaired and that there remains a risk to the public given the lack of full insight and lack of any evidence of measures she has taken to strengthen her practice. The panel took into account the nature of the concerns, the misconduct identified and her experience, including any mitigating factors. It was of the view that conditions of practice would be the least restrictive sanction that the panel could impose that would protect the public and eventually allow Mrs Parton to return to unrestricted practice, if she so wishes. 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 had regard to the fact that these incidents happened in 2019. The panel was also aware that Mrs Parton had indicated recently that she did not intend to revalidate in order to return to practice, however, it was of the view that it was in the public interest that, with appropriate safeguards, she should be able to return to practise as a nurse, should she choose to do so.

The panel also considered that an informed member of the public armed with the full facts of this case would be satisfied that the public interest would not be undermined by Mrs Parton being allowed to continue practising and that the public would be adequately protected with a conditions of practice order.

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 would be disproportionate in the circumstances of this case. The panel was of the view that a temporary removal from the register would serve no purpose as it would not provide Mrs Parton with the opportunity to strengthen her practice and address the failings identified.

Having regard to the matters it has identified, 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.

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 not administer medication until you have been deemed competent to do so by your line manager, mentor or supervisor.*

2. *You must not be the sole registered nurse on duty until you have been deemed competent to be so by your line manager, mentor or 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:*
 - *management and administration of medication*
 - *importance of following policies, specifically, restraint policy and medication policy*
 - *documentation including care planning and the importance of adhering to them*
4. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
5. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC before any NMC review hearing or meeting.*
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.*
 - 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.

...

Any future panel reviewing this case may be assisted by:

- *Your attendance at a future hearing;*
- *A further up-to-date reflective piece demonstrating your insight into the misconduct found;*
- *Evidence of recent practice; and*
- *Professional development, including documentary evidence of completion of any recent training, and testimonials from a line manager or supervisor that detail your current work practices.”*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Parton'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 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 decisions and reasons of the previous panel.

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 Parton's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Parton has in the past placed service users and colleagues at unwarranted risk of harm. The original panel also found that Mrs Parton's failings encompassed basic aspects of nursing practice and a failure to comply with care plans and several policies designed to maintain the safety of service users and colleagues. The panel further noted that the original panel found that Mrs Parton had shown limited insight, and that her written reflection did not sufficiently address the concerns and instead focused mainly on the impact on herself rather than service users, colleagues, or the public.

At this meeting, and similarly to what the original panel found, the panel noted that it had not been provided with any recent evidence of reflection or testimonials from Mrs Parton. The panel could therefore not be satisfied from the limited evidence it had received that Mrs Parton fully understands and appreciates the extent of her actions.

Additionally, the panel has regard to an email dated 7 November 2023, from the NMC to Mrs Parton, stating:

'... Following our telephone conversation on 2 November 2023, please can you confirm in writing, if you would like to make an application at your next review to allow your order to lapse? If so, please can you explain why, and state what your future intentions are in regards to working in the nursing/midwifery profession, to assist the reviewing panel in their consideration of the matter...'

The panel has regard to Mrs Parton's response to the NMC, via an email dated 27 November 2023, stating:

'... Thank you for your above email, I would like to apologise for the delay in replying. I have considered my possible options regarding my future career as a nurse quite carefully.

I have decided to retire from nursing. I have several health issues which would impact my ability to perform my duties as a nurse, therefore I should like the committee to consider at my upcoming review for the order to lapse thus removing me from the register...'

However, the panel noted that although it has new information regarding Mrs Parton's health and a request to be removed from the register, it is not clear as to whether Mrs Parton will be making a formal application to allow her order to lapse as she did not confirm this to the NMC in her email and has not made such an application to date.

In light of these circumstances, the panel 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 Mrs Parton's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Parton'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 Parton'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 Parton'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 imposing a further conditions of practice order on Mrs Parton's 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 noted that by imposing a further conditions of practice order, it allows Mrs Parton time to contact the NMC and proceed with a formal application to remove herself from the register, if this is what she chooses to do.

The panel therefore determined that the existing conditions are sufficient to address the findings highlighted and that continuing those conditions would be sufficient to protect patients and the wider public interest.

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 Mrs Parton's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 6 months, which will come into effect on the expiry of the current order, namely at the end of 17 January 2024. It decided to confirm 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 not administer medication until you have been deemed competent to do so by your line manager, mentor or supervisor.
- 2) You must not be the sole registered nurse on duty until you have been deemed competent to be so by your line manager, mentor or 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) management and administration of medication
 - b) importance of following policies, specifically, restraint policy and medication policy
 - c) documentation including care planning and the importance of adhering to them
- 4) You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
- 5) You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC before any NMC review hearing or meeting.

- 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.
 - 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 6 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 17 January 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see whether Mrs Parton has complied with the order or made a formal application to be removed from the NMC register. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Clarification of the position relating to Mrs Parton's registration;
- Mrs Parton's participation in the process;
- A further up-to-date reflective piece demonstrating Mrs Parton's insight into the misconduct found;
- Evidence of recent practice; and
- Professional development, including documentary evidence of completion of any recent training, and testimonials from a line manager or supervisor that detail Mrs Parton's current work practices.

This will be confirmed to Mrs Parton in writing.

That concludes this determination.