

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

**Substantive Order Review Meeting
Monday, 9 October 2023**

Virtual Meeting

Name of Registrant: Jennifer Barbara Mcleish

NMC PIN 10I2533S

Part(s) of the register: Registered Nurse – Adult
Effective – 30 September 2015

Relevant Location: Glasgow

Type of case: Misconduct

Panel members: Bryan Hume (Chair, Lay member)
Beth Maryon (Registrant member)
Linda Redford (Lay member)

Legal Assessor: Angus Macpherson

Hearings Coordinator: Amanda Ansah

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 24 November 2023 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 Miss Mcleish's registered email address by secure email on 4 September 2023.

The panel took into account that the Notice of Meeting provided details of the review and that the meeting would be held no sooner than 9 October 2023, inviting Miss Mcleish 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 Miss Mcleish 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 suspension order. This order will come into effect at the end of 24 November 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 27 October 2022. This was reviewed on 4 April 2023 and a suspension order for a further 6 months was imposed.

The current order is due to expire at the end of 24 November 2023.

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 27 September 2019;
 - a) Failed to advise Patient A of the risks associated with hyaluronic injections prior to their administration. [PROVED]
 - b) Failed to obtain informed or any consent from Patient A prior to the administration of hyaluronic injections. [PROVED]

- 2) On and/or after 28 September 2019 failed to provide any follow-up care to Patient A when you were informed Patient A had sustained a possible vascular occlusion. [PROVED]

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.'

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

'This panel noted that the original panel found that there has been no evidence provided by Ms Mcleish that demonstrates her insight, reflection or remorse into her actions and the impact it had on Patient A, Colleagues and the wider profession, as well as her understanding of the significance of her actions.

This panel has found that there continues to be no evidence of Miss Mcleish having insight or remorse into the charges found proved against her. She has not engaged with the NMC since November 2022.

In its consideration of whether Miss Mcleish has strengthened her practice, the panel noted she has not provided any evidence of taking steps to improve her practice.

Miss Mcleish has not shown any insight or remorse about the impact of her actions on her clients. The panel found therefore that Miss Mcleish was

liable to repeat the matters found proved in the charges and concluded that a finding of current impairment is required in this case to protect the public.

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 Miss Mcleish's fitness to practise remains impaired.'

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

'Having found Miss Mcleish'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 Miss Mcleish'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 Miss Mcleish's misconduct was not at the lower end of the spectrum and

that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Miss Mcleish 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, Miss Mcleish's ongoing lack of engagement and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Mcleish's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would continue to protect the public whilst allowing Miss Mcleish further time to start to reflect and possibly gain insight into her previous failings. It considered that Miss Mcleish needs to gain a full understanding of how the misconduct of one nurse can impact upon the reputation of the nursing profession as a whole and not just the individual nurse or any organisation or client she may work for. The panel concluded that a further suspension order at this stage would be the appropriate and proportionate response and would afford Miss Mcleish a further period of time to engage with the NMC and show evidence of insight and steps taken to strengthen her practice.

The panel gave serious consideration to a strike-off order. The panel considered Miss Mcleish's lack of regard for her regulator and apparent misunderstanding of the purpose of the regulatory process. The panel also noted her lack of insight or remorse. Miss Mcleish has not formally expressed her intention in regard to any future nursing career. Taking everything into account, the panel found a strike-off order disproportionate in the current circumstances of this case.

The panel determined therefore that a suspension order remains the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months which would provide Miss Mcleish with an opportunity to engage with the NMC and make a clear statement to a future panel regarding her nursing career. It considered this to be the most appropriate and proportionate sanction available.'

Decision and reasons on current impairment

The panel has considered carefully whether Miss Mcleish'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 NMC bundle.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Miss Mcleish's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Miss Mcleish had insufficient insight. At this meeting the panel found that Miss Mcleish still had insufficient insight as she has not engaged with the NMC since November 2022.

In its consideration of whether Miss Mcleish has taken steps to strengthen her practice, the panel took into account the recommendations made by the last panel. The panel noted that Miss Mcleish had not provided correspondence clearly stating her intention in regard

to her nursing career, evidence of any steps taken to improve her practice, or a reflective piece demonstrating developed insight into the impact of her practice on her clients.

The last reviewing panel determined that Miss Mcleish was liable to repeat matters of the kind found proved. Today's panel has received no new information that undermines this finding. The panel noted that Miss Mcleish has not provided any insight into her actions or complied with the recommendations made by the previous panel. The panel also noted that Miss Mcleish has not given any indication of what her intentions are with regard to her nursing career. In light of this the panel determined that Miss Mcleish is liable to repeat matters of the kind found proved. 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 Miss Mcleish's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Mcleish'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 Miss Mcleish'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 Miss Mcleish's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Miss Mcleish's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable, and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Mcleish's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Mcleish further time to fully reflect on her previous failings. The panel concluded that a further 6-month suspension order would be the appropriate and proportionate response and would afford Miss Mcleish adequate time to develop her insight and take steps to strengthen her practice.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months to provide Miss Mcleish with an opportunity to engage with the NMC and to respond to the recommendations made by the previous panel. It considered this to be the most appropriate and proportionate sanction available. The panel reflected that a future reviewing panel may consider the imposition of a striking-off order if Miss Mcleish's position remains the same when this further period of suspension is reviewed.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 24 November 2023 in accordance with Article 30(1).

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

Any future panel reviewing this case would be assisted by:

- Correspondence from Miss Mcleish clearly stating her intention in regard to her nursing career.
- Evidence of any steps taken to improve Miss Mcleish's practice.
- A reflective piece that may support that Miss Mcleish has developed insight into the impact of her practice on her clients.

This will be confirmed to Miss Mcleish in writing.

That concludes this determination.