

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

**Substantive Order Review Hearing
Wednesday, 17 January 2024**

Virtual Hearing

Name of Registrant: Julie Ann Walker

NMC PIN: 0811893S

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (23 November 2011)

Relevant Location: Glasgow

Type of case: Misconduct

Panel members: Rachel Childs (Chair, Lay member)
Anne Witherow (Registrant member)
Isobel Leaviss (Lay member)

Legal Assessor: John Donnelly

Hearings Coordinator: Eyram Anka

Nursing and Midwifery Council: Represented by Terence Merck, Case Presenter

Ms Walker: Present and represented by Dr Francis Graydon,
instructed by Royal College of Nursing (RCN)

Order being reviewed: Conditions of practice order (18 months)

Fitness to practise: Impaired

Outcome: Conditions of practice order (6 months)

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Dr Graydon made a request that this case be held partially in private on the basis that proper exploration of your case involves reference to matters of your private life. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Merck indicated that he supports the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel decided to go into private session as and when matters relating to your private life arise in order to protect your privacy.

Decision and reasons on review of the substantive order

The panel decided to vary the current conditions of practice order.

This order will come into effect at the end of 29 February 2024 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 18 months by a Fitness to Practise Committee panel on 3 August 2022.

The current order is due to expire at the end of 29 February 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. Whilst working for NHS Great Glasgow and Clyde:

a) On 29 September 2017 regarding Patient A:

*i) Did not recognise symptoms of a cardiac arrest **[PROVED]***

*ii) Did not escalate the symptoms of a cardiac arrest **[PROVED]***

*b) On 4 October 2017 provided an inadequate shift handover **[PROVED]***

c) On 4 October 2017 in relation to Patient B:

*i) Failed to undertake adequate post-operative observations **[PROVED]***

*ii) Failed to abide by the Duty of Candour by stating to Colleague A that you had not received a handover when a handover had been given **[PROVED]***

d) On 4 October 2017 in relation to Patient C:

*i) Administered Pregabalin when it was not prescribed **[PROVED]***

*ii) Did not record the administration of Pregabalin **[PROVED]***

*iii) Did not administer Clexane **[PROVED]***

e) [...]

f) [...]

g) On or around 14 October 2017

i) [...]

*ii) were unable to correctly flush NJ tube **[PROVED]***

*iii) were unaware of the correct procedure for dealing with a leaking PVC **[PROVED]***

iv) were unable to remove wound clips correctly without assistance
[PROVED]

v) opened a dressing pack on the Patient's bedside table **[PROVED]**

2. Whilst working as a nurse at Craig-en-Goyne Care Home:

a) Did not consult Patient D's notes prior to attempting a catheterisation
[PROVED BY ADMISSION]

b) On or around 19 July 2019 were unable to catheterise Patient D **[PROVED BY ADMISSION]**

c) Failed to record your attempts to catheterise Patient D in a timely fashion and/or failed to note that you had recorded your attempt in retrospect
[PROVED BY ADMISSION]

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 your reflective statement showed some insight into the concerns about your practice. However, it noted that not all areas of concern were addressed, and considered your insight to be selective. Furthermore, the panel found that in your oral evidence and in your reflective statement, you spoke generically about what you would have or should have done. It was not satisfied that you have applied that knowledge to your previous actions, and used it to reflect on your failings.

On the basis of your oral and written evidence, the panel also found that you have not accepted full responsibility for your actions and misconduct. It noted that you have not reflected on your lack of candour, or acknowledged that patients were actually placed at an unwarranted risk of harm by your actions.

The panel considered whether you have sufficiently strengthened your practice. It noted that you have undertaken training in the areas relevant to some of the

charges. These include courses in CPR/anaphylaxis, medication administration, a medication competency assessment and catheterisation. However, you have not undertaken training related to NJ tubes, PVC, recognising and escalating symptoms of deteriorating patients, adequate handovers, post-operative observations and the duty of candour.

The panel placed limited weight on the reference from Ms 10. It has taken into account that the reference mentions all of the areas of misconduct identified above. However, it did not provide a sufficient level of detail to assist the panel in determining the depth of which you have strengthened your practice in relation to each topic, as specifically related to the charges found proved. The panel also considered that you have worked in care homes and not acute settings since the incidents in the charges; therefore, the extent to which your practice has been strengthened may not have been tested in your current workplace. Finally, the panel noted that the reference was not on headed paper, nor was it signed or dated by the author.

The panel has determined that your insight, whilst developing, is limited. It has also determined that you have not sufficiently strengthened your practice in all areas of concern. Therefore, the panel has concluded that there is a real risk of repetition, and as such, a finding of impairment is necessary on the grounds of public protection.

The panel has borne in mind the overarching objectives of the NMC: to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel considered that a fully informed member of the public would be concerned if, in the circumstances, a finding of impairment was not made. It considered the evidence of Ms 5 in this respect:

'I did not enjoy working with Julie because there was always a sense of unease when working alongside her. This was because Julie would question things that I would expect a nurse should know and this made me feel uneasy. When I worked with Julie, I felt like I was working alone. This is because I had to oversee what she was doing, and as the nurse in charge I had to ensure that the tasks she had undertaken were being done appropriately. This meant that I was managing her and managing the ward. I did not feel like this when working with other members of staff of the same level as Julie.'

And:

'I remember that the errors I reported to my manager would be small things, but it always came down to ensuring patient safety. Julie stated that she had a lot of experience and I remember thinking that if this was this case, she would not be asking questions that I would expect from a student nurse. The most basic things were not being followed by Julie, she was not able to follow even when I was prompting her and giving her assistance.'

The panel therefore determined that a finding of impairment on public interest grounds is required.

Hence, the panel determined that your 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 the light of its finding of current impairment. The panel decided that it would neither protect the public nor be in the public interest to take no further action.'

It then considered the imposition of a caution order, but determined that in the light of your limited insight and strengthening of practice, 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 neither protect the public nor be 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 and workable. The panel had regard to the following factors of the SG which may indicate that a conditions of practice order is appropriate:

- Identifiable areas of the nurse or midwife’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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. It had regard to the fact that, since these incidents, you have worked safely as a nurse with highly vulnerable patients. The panel determined that, with appropriate restrictions, it was in the public interest for you to be able to continue to practise as a nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is 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. The panel noted that you have no previous regulatory findings and have fully engaged with this regulatory process. You have shown some insight into your misconduct, albeit limited, and a suspension order would not give you the opportunity to further develop your insight, to remediate your misconduct and to demonstrate safe practice in the areas of concern.

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 restrict your nursing practice to a single employer. You may not undertake agency or bank work.*
- 2. You must ensure that you are indirectly supervised at all times that 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.*

3. *You must ensure that you are directly supervised by a registered nurse of band 6 or above in the following areas. This supervision must continue until you are signed off as competent by a registered nurse of band 6 or above:*
 - *Flushing and maintenance of NJ tubes*
 - *Maintenance and management of PVC devices*
 - *Competence in wound care and aseptic techniques*
 - *Undertaking all required observations, including post-operative observations if appropriate*

4. *You must undertake recognised, certificated training on duty of candour within two months from the date that these conditions come into force.*

5. *You must work with your line manager to create a personal development plan (PDP). Your PDP must address the following areas of concern:*
 - *Flushing and maintenance of NJ tubes*
 - *Maintenance and management of PVC devices*
 - *Recognising and escalating the deterioration of patients*
 - *Conducting adequate handovers*
 - *Undertaking all required observations, including post-operative observations if appropriate*
 - *Consulting patient notes before carrying out nursing care*
 - *Competence in wound care and aseptic techniques*
 - *Abiding by the duty of candour*

You must:

- a) *Send your case officer a copy of your PDP within 14 days of you starting a new role.*
- b) *Meet with your line manager at least every 4 weeks to discuss your progress towards achieving the aims set out in your PDP.*
- c) *Send your case officer a report from your line manager every 6 months. This report must show your progress towards achieving the aims set out in your PDP.*

6. You must keep a reflective practice profile about cases relevant to the following areas of concern:

- *Recognising and escalating symptoms of deteriorating patients*
- *Providing adequate shift handovers*
- *Taking adequate post-operative observations*
- *Abiding by the duty of candour*
- *Administration of medication and recordkeeping*
- *Consulting patient notes before carrying out patient care*
- *Competence in wound care and aseptic techniques*

The profile will:

- a) *Select three cases per area of concern when you undertake or assist with the above.*
- b) *Set out the nature of the care given.*
- c) *Be signed by your line manager each time.*
- d) *Contain feedback from your line manager on how you gave the care.*

You must send your case officer a copy of the profile every six months.

7. You must submit a reflective piece to your case officer 14 days in advance of any review hearing addressing the facts found proved and your misconduct as outlined in condition 6.

8. 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.*

9. 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.*

10. You must immediately give a copy of these conditions to:
- a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).
 - c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
 - d) 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.
11. 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.
12. 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 18 months to allow you adequate time to fully comply with the conditions and to demonstrate safe practice.'

Decision and reasons on current impairment

The panel has considered carefully whether your 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. It has taken account of the submissions made by Mr Merck on behalf of the NMC and submission from Dr Graydon, on your behalf.

Mr Merck referred the panel to the previous panel's findings regarding your impairment. He submitted that in the evidence you provided there are no specific certificates of training for two of the specific areas of concern identified by the previous panel, namely the flushing and maintenance of NJ tubes and the maintenance and management of PVC devices. He informed the panel that you have only provided evidence of relevant training regarding duty of candour. He submitted that there would have to be substantive content to indicate what you have taken from that training to satisfy the condition. Mr Merck submitted that there is a duplication of certificates for communication which is not particularly salient to the areas of concern.

Mr Merck referred the panel to the reflective pieces and the reflective assessments you provided. He submitted that there appears to be an improved level of insight. However, the absence of specific training regarding the areas mentioned above may lead the panel to find that these areas are not sufficiently remedied as to preclude the finding of continued impairment in relation to your clinical competence.

Mr Merck submitted that a finding of impairment remains necessary to protect the public and to meet the public interest. Regarding sanction, he submitted that the panel may wish to consider a different formulation of conditions of practice. He drew the panel's attention to your reflective statement in which you explain the reasons why you were unable to comply with the conditions of practice.

However, Mr Meck submitted that if the panel finds that it could not formulate workable conditions then it may consider a suspension order. He acknowledged that you provided numerous positive testimonials and feedback which are helpful in forming an overall picture of your practice to date. Nevertheless, he emphasised that the central concerns are the clinical areas of practice and the duty of candour as opposed to the assessment of your general competency and conduct. Therefore, Mr Merck submitted that there should be a finding of impairment and the NMC's principal application is that a different set of

conditions should be considered before a higher sanction, if the panel decides that lower sanctions than a conditions of practice order would not be appropriate.

The panel also had regard to submissions from Dr Graydon.

Dr Graydon submitted that it is important for the panel to consider what has taken place since the imposition of the conditions of practice order. He submitted that you would contend that you have developed the appropriate insight and that you are not currently impaired based on what you have achieved in the intervening period between August 2022 and now. Dr Graydon submitted that the conditions of practice order should be allowed to lapse upon expiry. However, if the panel decide that your fitness to practise is still impaired then the current conditions of practice order should be extended.

Dr Graydon drew the panel's attention to the findings of the previous panel regarding your impairment. He referred the panel to your reflective piece in which you acknowledged and apologise for not complying with the order. He informed the panel that you set out why you failed to submit the documents in time. [PRIVATE] He informed the panel that it is clear that you have overcome those difficulties based on the evidence you have provided.

Mr Graydon addressed your non-compliance with the order. Regarding Condition 5(a) which was due in September 2022, he submitted that the condition was complied with, but evidence was provided in December 2022, after the deadline. He informed the panel that the same goes for Condition 6. Dr Graydon explained that in respect of Condition 3 which states that there were and continue to be deficiencies in flushing and maintenance of NJ tubes and the maintenance and management of PVC devices, you are yet to complete specific training in these areas. He informed the panel that you will undertake the training on 25 January 2024 and 31 January 2024 respectively. He explained that you were waiting for these trainings to become available with the NHS for some time.

Dr Graydon submitted that you have now developed sufficient insight evidenced through your reflective pieces. He informed the panel that in order to develop and achieve sufficient insight so as to remediate your misconduct you have satisfied the conditions, you have engaged with the NMC process and you continue to make progress in your clinical practice, with the exception of the two areas that have been mentioned above.

Dr Graydon submitted that you have made significant progress in sufficiently strengthening your practice as evidenced by the Personal Development Plans (PDP) and other documents before the panel. He referred the panel to your reflective pieces submitting that they are detailed and comprehensive reflections that demonstrate that you have engaged with the process to remediate your misconduct.

Dr Graydon referred the panel to the certificates of training that you provided and reminded the panel that it is out of your control when certain courses are available. He also referred the panel to the testimonials you provided which indicate that as a nurse you are thought of positively and no concerns have been raised since the conditions of practice order was imposed. Dr Graydon told the panel that the certificates, testimonials, the training and the ongoing daily activities that you carry out demonstrate that you have strengthened the areas in which you were found to be deficient. Dr Graydon submitted that in light of the above there is no longer a real risk of repetition.

Dr Graydon submitted that given the strengthening of your practice evidenced in the documents before the panel, a fully informed member of the public would not be concerned if a finding of impairment were not made.

Dr Graydon submitted that if the panel were to conclude that your fitness to practise is not currently impaired then the order should be allowed to lapse upon expiry. He explained that this would give you an opportunity to continue with your training to address the areas of concern which have been identified above. However, if the panel finds that your fitness to practise is still impaired then Mr Graydon submitted that the current conditions of practice order should be extended.

Dr Graydon submitted that a suspension order would be wholly inappropriate and disproportionate in these circumstances because you have applied yourself to the best of your ability to remedying the deficiencies that were identified in your practice.

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 your fitness to practise remains impaired.

The panel determined that you have shown sufficient insight into all the charges, your misconduct and you have taken real steps to remediate. It noted that you have fulfilled and complied with the majority of the conditions of practice order. The panel was of the view that the quality of your PDP and your reflective practice profile were good, in that they were detailed and they reflected on the key areas that were found to be deficient in your practice from the original hearing. The panel was satisfied with the extent of your remediation which was evidenced in the documents before the panel. It noted that they were extensive and of good quality.

Furthermore, the panel was impressed by the level of support from your employer that has enabled you to work effectively on your personal development profile to address many of the outstanding areas of concern. The panel gave great weight to the three professional testimonials from two registered nurses and a GP who have supervised you, employed you and/or worked closely with you throughout the period. These testimonials were wholly supportive of you and your practice and were provided in full knowledge of the background of your case.

However, the panel was concerned that there were two outstanding skills that had been identified as impaired at the original hearing, namely the flushing and maintenance of NJ tubes and the maintenance and management of PVC devices. It took into account that you have not had an opportunity to address these areas of clinical practice in your current employment because those are not skills that are deployed in that environment. Therefore, your fitness to practise remains impaired in relation to those specific areas.

The panel noted that you are booked on two relevant in person training events on 25 January 2024 and 31 January 2024 that will address these outstanding areas of concern. However, the panel had to decide on impairment as of today. The panel consider that these two skills are important nursing skills and are likely to be required of you in a range

of different nursing environments. Accordingly, it had to be satisfied that you are competent in these clinical skills before it could be persuaded that you are no longer impaired.

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 panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The panel decided that a caution order is not appropriate in this case.

The panel next considered whether imposing a varied conditions of practice order 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel considered that you have been complying with the current substantive conditions of practice order, albeit that some documentation had been submitted late.

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 original panel did that there were no

deep-seated attitudinal problems. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.

The panel determined that the impairment that remains relates to two specific clinical areas. It considered that the remainder of the conditions have been complied with and are now not required to protect the public. It is only a very specific condition that is necessary to address the clinical areas identified. Additionally, it determined that there would be no public interest in keeping restrictions that are unnecessary on the practice of a registered nurse.

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 because you have complied with the requirements of the current order and you have engaged with the NMC process.

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 29 February 2024. It decided to impose 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 directly supervised by a registered nurse of band 6 or above in the following areas. This supervision must continue until you have attended relevant training in these areas and are signed off as competent by a registered nurse of band 6 or above:
 - Flushing and maintenance of NJ tubes
 - Maintenance and management of PVC devices

2. 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.

3. 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.

4. 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.

5. 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.

6. 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 29 February 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 how well you have complied with the order. 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:

- Evidence of relevant training in the identified areas.
- Evidence of competence sign off in the identified areas.

This will be confirmed to you in writing.

That concludes this determination.