

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

**Substantive Order Review Meeting  
8 July 2020**

Virtual Hearing

**Name of registrant:** Lee Anthony Soane

**NMC PIN:** 05E1183E

**Part(s) of the register:** Registered Adult Nurse – Sub Part 1  
12 February 2006

**Area of registered address:** Basingstoke

**Type of case:** Health and Misconduct

**Panel members:** Christina McKenzie (Chair, Registrant member)  
Ian Dawes (Lay member)  
Richard Lyne (Registrant member)

**Legal Assessor:** Michael Levy

**Panel Secretary:** Edmund Wylde

**Order being reviewed:** Suspension order (6 months)

**Fitness to Practise:** Impaired

**Outcome:** Striking-off order to come into effect immediately  
in accordance with Article 30(2)

## **Decision and reasons on service of Notice of Meeting**

The panel noted at the start of this meeting that Mr Soane was not in attendance and that the Notice of Meeting had been sent to Mr Soane's registered email address on 5 May 2020.

The panel took into account that the Notice of Meeting provided details of the substantive order being reviewed, the time, date and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Soane 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).

The panel was satisfied that this review should occur at a meeting, and did not consider it necessary to refer the matter to a hearing. The panel was not confident that adjourning the matter would secure the attendance of Mr Soane on a future occasion. It noted that Mr Soane had not attended the substantive hearing in January 2020. Furthermore, it is clear from the email correspondence before the panel that Mr Soane has no intention of attending or engaging substantively with these review proceedings; in an email dated 6 April 2020, Mr Soane writes:

*"I have no interest in returning to any kind of nursing or care role after committing 25 years of my life to the NHS.*

*...*

*I will continue to refuse to participate.*

*...*

*To this end I would like to thank you for your correspondence and respectfully state that I will NOT be participating in any needless testing of my fitness to practice."*

## Decision and reasons on review of the substantive order

The panel decided to make a striking-off order. This order will come into effect immediately in accordance with Article 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 23 January 2020.

The current order is due to expire at the end of 24 August 2020.

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. [PRIVATE]

[PRIVATE]

2. [PRIVATE]

a. [PRIVATE]

b. [PRIVATE]

3. [PRIVATE]

4. ...

5. [PRIVATE]

6. [PRIVATE]

*That you, a registered nurse:*

7. ...

8. ...

9. *On 22 June 2017 did not;*

- a. *Sign for the administration of rivaroxaban to Patient E.*
- b. *Administer dabrofenid to Patient F.*
- c. *Did not conduct a post-dose electrocardiogram for Patient F.*

10. *On 23 June 2017 did not record the administration of diclofenac sodium via syringe driver on the prescription form for Patient D.*

11. *Between 8 September 2017 and 20 October 2017 failed to co-operate with the Nursing and Midwifery Council's investigation into your fitness to practise.*

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

### **Schedule 1 (PRIVATE)**

[PRIVATE]

### **Schedule 2**

*5 June 2017 10.05*

*5 June 2017 12.05*

*5 June 2017 13.10*

*6 June 2017 10.50*

*6 June 2017 13.00*

*10 June 2017 10.30*

10 June 2017 08.20  
11 June 2017 08.20  
11 June 2017 10.40  
11 June 2017 13.25  
12 June 2017 15.10  
12 June 2017 17.50  
12 June 2017 20.15  
13 June 2017 13.15  
13 June 2017 15.00  
14 June 2017 10.20  
14 June 2017 13.25  
18 June 2017 09.40  
18 June 2017 13.00  
19 June 2017 13.20  
19 June 2017 14.55  
19 June 2017 16.10  
19 June 2017 18.30  
19 June 2017 20.20  
20 June 2017 08.30  
20 June 2017 10.20  
20 June 2017 13.15  
22 June 2017 06:45  
22 June 2017 08:30  
22 June 2017 09:55  
23 June 2017 09:35  
23 June 2017 12:40

### **Schedule 3**

5 June 2017 08.15  
5 June 2017 12.40  
6 June 2017 09.55  
9 June 2017 14.15

10 June 2017 09.45

10 June 2017 10.30

10 June 2017 11.50

11 June 2017 10.10

The original panel determined the following with regard to impairment, in respect of the charges found proved engaging Mr Soane's health (namely charges 1, 2, 3, 5, and 6):

*"[PRIVATE]"*

The original panel determined the following with regard to impairment, in respect of the charges found proved engaging Mr Soane's misconduct (namely charges 9, 10, and 11):

*"The panel determined that all four limbs of the Grant test were engaged in this case. The panel considered that patients were potentially put at risk of harm as a result of Mr Soane's misconduct [PRIVATE]. Mr Soane's misconduct in this regard has breached a fundamental tenet of the nursing profession and therefore brought its reputation into disrepute. Similarly, it was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.*

*The panel considered that Mr Soane had not demonstrated any insight into his misconduct, nor had he engaged or provided any detailed response. The panel considered that his conduct could be remediated, but that it is dependent on Mr Soane engaging with his regulator and taking appropriate action. In the absence of any evidence of remediation, the panel determined that there remains a significant risk of repetition of this behaviour.*

*Further, the panel is of the view if Mr Soane was able to work as a registered nurse whilst not complying with the regulator, there would be public protection concerns surrounding his practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.*

*The panel bore 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 determined that a finding of impairment on public interest grounds is required to uphold proper standards of conduct in the nursing profession. The panel therefore 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 Mr Soane's fitness to practise impaired on the grounds of public interest.*

*Having regard to all of the above, the panel was satisfied that Mr Soane's fitness to practise is currently impaired."*

The original panel determined the following with regard to sanction:

*"The panel took into account the following aggravating features:*

- *Mr Soane's committed repeated acts and omissions occurred over a sustained period of time;*
- *There were repeated wilful failures to co-operate with the NMC;*
- *Mr Soane's case involved a risk of patent harm resulting from errors in his practice;*
- *Mr Soane's actions could have led to vulnerable patients who were potentially in pain not receiving their medication;*
- *Mr Soane's actions potentially compromised colleagues by the forging of signatures;*
- *Mr Soane's entrenched refusal to accept any responsibility for his actions or [PRIVATE];*
- *Mr Soane's lack of any meaningful engagement with the NMC.*

*The panel also took into account the following mitigating features:*

- [PRIVATE]
- *Mr Soane had worked an otherwise unblemished career over 22 years as a registered nurse;*
- [PRIVATE]
- *There were limited concerns about Mr Soane's clinical practice.*

*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, address the public protection concerns in this case, nor in the public interest to take no further action.*

*The panel 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 Mr Soane'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 Mr Soane'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 Mr Soane'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.*

*The panel bore in mind that it does not have any information to suggest that a conditions of practice order would be workable. Further, Mr Soane's lack of engagement with the NMC investigation gave the panel no confidence he would engage with a conditions of practice order. For these reasons, the panel determined that conditions of practice could not be formulated in a way that would address the concerns raised, nor adequately protect the public or the public interest considerations of this case.*



*Furthermore, the panel concluded that the placing of conditions on Mr Soane's registration would not adequately address the seriousness of this case.*

*The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:*

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

*The panel noted that the first five factors were not apparent in Mr Soane's case.*

*The panel noted that there were numerous incidents of dishonesty and a repeated failure to engage with the regulator. However, it recognised that [PRIVATE] and therefore concluded that a striking-off order would be disproportionate.*

*Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Soane's case to impose a striking-off order because of his health condition.*

*Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.*

*The panel noted the hardship such an order will inevitably cause Mr Soane. However this is outweighed by the public interest in this case.*

*The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.*

*In making this decision, the panel carefully considered the submissions of Mr Hugh-Jones in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking-off order in this case would be unduly punitive, considering most of the remaining charges concern Mr Soane's health condition.*

*The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct and Mr Soane's lack of action [PRIVATE].*

*The panel seriously considered imposing a striking-off order in Mr Soane's case. It took note of the SG, which states that at the first instance a striking-off order cannot be used if a nurse's fitness to practise is impaired solely due to their health.*

*However, in the interests of fairness, the panel determined that a short period of suspension would be appropriate in order to provide Mr Soane an opportunity to engage with the NMC. Failure to take this opportunity would be viewed by any reviewing panel extremely seriously.*

*At 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. The full range of sanctions will be available to any reviewing panel.*

*Any future panel reviewing this case would be assisted by:*

- *Mr Soane's attendance;*
- *Any evidence of Mr Soane's compliance with the NMC's requests;*
- *[PRIVATE].*

## **Decision and reasons on current impairment**

This panel has considered carefully whether Mr Soane'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 had regard to all of the documentation before it. It 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 Mr Soane's fitness to practise remains impaired. There is no evidence of any attempts by Mr Soane to develop his insight into his acts of misconduct, or any other attempts to remediate his practice. There have been no testimonials or other information provided on Mr Soane's behalf for this panel's consideration. Furthermore, [PRIVATE].

The panel considered the correspondence between Mr Soane and the NMC and determined that Mr Soane has engaged insofar as to signal his disengagement with the regulatory process. It is clear that Mr Soane does not accept the findings of the original panel, and does not appear to have taken any steps to address the original panel's finding of impairment.

This panel considered that, on the information before it, there has been no material change of circumstance since the findings of the original panel. As such, it is necessary to find that Mr Soane's fitness to practise remains currently impaired, on both public protection and public interest grounds.

### **Decision and reasons on sanction**

Having found Mr Soane'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 and allow the order to lapse, but concluded that this would be inappropriate in view of the seriousness and nature 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, Mr Soane's lack of engagement and insight, and this panel's finding of impairment on public protection grounds, an order that does not restrict Mr Soane's practice, such as a caution order, would not be appropriate in the circumstances. A caution order would be inappropriate in view of the issues identified, and would not sufficiently protect the public. 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 order would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to charges found proved, bearing in mind their seriousness, the potential harm to patients, and the attitudinal issues raised by Mr Soane's lack of engagement and the content of his correspondence with the NMC. Furthermore, the panel had no confidence that, given Mr Soane's lack of

engagement with the regulatory process, Mr Soane would adhere to any conditions of practice it could conceivably formulate. It also concluded that such an order would not adequately address the public interest in this case.

The panel next considered imposing a further suspension order. Mr Soane has, during the duration of the current suspension order, had an opportunity to demonstrate a positive change of attitude, engage with the regulatory process, and begin to develop his insight and attempt to remediate his practice. He has not taken this opportunity. [PRIVATE]; furthermore, there is no evidence of any recognition of the seriousness of the charges found proved or any reflection on their potential impact on patients, patients' families, colleagues, or the wider public. It is clear from the documents before the panel that there is significant evidence of Mr Soane having a deep-seated attitudinal issue. Taking all the above into account, the panel determined that a further period of suspension would not serve any useful purpose.

The panel bore in mind that a striking-off order is available to this panel, as this case relates not solely to Mr Soane's health, but to both matters of his health and his misconduct.

The panel determined that it was necessary to take action to prevent Mr Soane from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. Mr Soane's actions entailed a pattern of repetition over a protracted period of time, which engaged a significant risk of patient harm and patients potentially not receiving their pain medication when needed; furthermore, there were interlinked significant acts of dishonesty. Mr Soane has not engaged with the regulatory process substantively, and has demonstrated no evidence of remorse, or insight and remediation in respect of both managing his health condition and addressing his acts of misconduct.

This striking-off order will replace the current suspension order with immediate effect in accordance with Article 30(2). The panel considered this course of action to be proportionate and appropriate, taking into account the seriousness of the charges found proved and Mr Soane's lack of insight, attempted remediation, or substantive engagement with the regulatory process.

This decision will be confirmed to Mr Soane in writing.

That concludes this determination.