

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

**Substantive Order Review Hearing  
Wednesday 17 November 2021**

Virtual Hearing

<b>Name of registrant:</b>	<b>Sonia Hunter</b>
<b>NMC PIN:</b>	12A1123E
<b>Part(s) of the register:</b>	Registered Nursing - Sub-Part 1 Adult Nursing – March 2012
<b>Area of registered address:</b>	Tyne and Wear
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Derek McFaul (Chair, Lay member) Diane Gow (Registrant member) Sue Davie (Lay member)
<b>Legal Assessor:</b>	Graeme Dalglish
<b>Panel Secretary:</b>	Opeyemi Lawal
<b>Nursing and Midwifery Council:</b>	Represented by Amanda Bailey, Case Presenter
<b>Miss Hunter:</b>	Not present and represented by Parissa Najah, instructed by The Royal College of Nursing (RCN)
<b>Order being reviewed:</b>	Conditions of practice order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Strike-off order to come into effect on 22 December 2021 in accordance with Article 30(1)</b>

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

At the outset of the hearing, Ms Najah made a request that this case be held in private on the basis that proper exploration of Miss Hunter's case involves references to her health and personal circumstances. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Bailey indicated that she supported the application to the extent that any reference to Miss Hunter's health and personal circumstances should be heard in private.

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 with reference to Miss Hunter's health and personal circumstances as and when such issues are raised.

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current conditions of practice order with a striking off order.

This order will come into effect at the end of 22 December 2021 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of an order originally imposed by a panel of the Competence Committee on 23 May 2017. On 25 October 2017 a panel of the Fitness to Practice Committee reviewed the original suspension order (6 Months) and made a Conditions of Practice Order for a period of twelve months which commenced on the expiry of the original order. On 5 November 2018 that order was reviewed and replaced with a suspension order (6 months) which was to expire on 22 June 2019. On 20 May 2019

the Fitness to Practice Committee reviewed the second suspension order and replaced it with Conditions of Practice Order (18 months). On 13 November 2020, a further Conditions of Practice Order was imposed for 12 months which is due to expire on 22 December 2021.

The current order is due to expire at the end of 22 December 2021

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

*'That you, whilst employed by Newcastle Upon Tyne Hospitals NHS Foundation Trust as a Band 5 Staff Nurse at Freeman Hospital:*

*1. On 24 July 2014, administered insulin to Patient A without the presence of a second checker;*

*2. On 15/16 August 2014, in respect of Patient B:*

*2.1 Administered Tazocin intravenously without the presence of a second checker;*

*2.2 Did not sign the eRecord to confirm that you had administered Tazocin intravenously;*

*3. on 2 October 2014, in respect of Patient C:*

*3.1 Did not check if the morning medication, Gliclazide and Paracetamol, had been tolerated;*

*3.2 Did not enter the patient's room to undertake the relevant assessments/observations;*

*3.3 Completed the patient's focus chart at the following times without conducting the required assessments:*

*3.3.1 10:00*

*3.3.2 11:00*

*3.3.3 12:00*

*3.4 Did not ensure that the patient was turned two hourly after 09:00 as required;*

*3.5 Your conduct in charge 3.3 was dishonest in that you:*

*3.5.1 Recorded that you had completed an assessment that you knew you had not done; and/or*

*3.5.2 intended to create the impression that you had complete an assessment when you had not done so'*

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

*'The panel noted that the first reviewing panel found that:*

*'Miss Hunter has not yet remedied the areas of deficient clinical practice identified at her substantive hearing. The panel noted that whilst Miss Hunter has addressed the question of insight in relation to her previous dishonesty, she has not remedied the clinical areas identified at her substantive hearing.'*

*The panel therefore determined to focus its considerations with regard to Miss Hunter's impairment on her clinical failings.*

*In its consideration of whether Miss Hunter has remedied her practice, the panel took into account that Miss Hunter has not been working as a registered nurse, and therefore was not able to not demonstrate that the clinical concerns identified in the original hearing have been addressed.*

*The panel noted that Miss Hunter has been employed as a support worker since November 2019. Miss Hunter's written representations are that this work engages some elements of her nursing skills. The panel also considered the reference and testimonial it received, made note of the attempts Miss Hunter had made in trying to seek employment, and the [PRIVATE] which has been provided to the NMC in advance of the hearing. These demonstrate Miss Hunter's efforts to comply with the current conditions of practice order.*

*The panel was therefore of the view that there is no new information before it which demonstrates that there has been any material change in Miss Hunter's circumstances. Miss Hunter has provided no evidence of undertaking training that specifically addresses the original misconduct identified or of keeping her nursing learning up to date. For these reasons, the panel is not satisfied that Miss Hunter has remediated the concerns with her clinical practice and therefore the risk of repetition remains. The panel therefore determined that a finding of 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 Hunter's fitness to practise remains impaired.'*

The last 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 public protection issues identified, an order that does not restrict Miss Hunter'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 Hunter'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 to impose a further conditions of practice order on Miss Hunter's registration. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel determined that in these circumstances the misconduct identified is capable of remediation. In the panel's view the conditions currently imposed are relevant, proportionate and workable, and should not be incompatible with Miss Hunter securing employment as a registered nurse. The conditions currently imposed are necessary to address the risks to the public. The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of Miss Hunter's case. In reviewing the Sanctions Guidance the panel concluded that there was no evidence of deep seated attitudinal problems, and a conditions of practice order was the most appropriate sanction to enable her to remediate her clinical failings.*

*Accordingly, the panel determined, pursuant to Article 30(1)(a) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 22 December 2020. The panel stated that this period should provide Miss Hunter enough time to manage her personal difficulties and seek nursing employment.*

*The panel decided to extend the existing conditions as follows:*

*'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 tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
- 2. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
- 3. You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name and contact details of the individual or organisation offering the post, employment or course of study.*
  - a) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
- 4. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of:*
  - a) working at all times on the same shift as, but not necessarily under the direct observation of, a Registered Nurse of Band 5 equivalent or above who is competent in medicines administration including intravenous medication.*
- 5. 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) *Medication administration*
  - b) *Tissue viability*
  - c) *Record keeping*
6. *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.*
  7. *You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
  8. *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 at least 14 days before any NMC review hearing or meeting.*
  9. *You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*
  10. *You must disclose a report not more than 28 days old 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 any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*



11. *You must not carry out medication administration unless directly supervised by a Registered Nurse of Band 6 or a Registered Nurse of Band 5 who is competent in medicines administration including intravenous medication when applicable.*
12. *You must keep a personal development log recording every time you have undertaken medication administration including intravenous medicines which must be signed by the person who supervised you, and contain that person's comments on how you carried out the procedure(s).*
13. *You must provide a copy of your personal development log to the NMC at least 14 days before any NMC review hearing or meeting.*
14. *[PRIVATE].*
15. *You must keep your nursing or midwifery commitments under review and immediately limit your practice or stop practising in line with advice from your general practitioner or any other registered medical practitioner or therapist responsible for your care.*
16. *You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (15) above, to them:*
  - a) *Any organisation or person employing, contracting with, or using you to undertake nursing or midwifery work.*
  - b) *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing or midwifery services.*
  - c) *Any prospective employer (at the time of application) where you are applying for any nursing or midwifery appointment.*
  - d) *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).'*

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

The panel has considered carefully whether Miss Hunter'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, reflective piece from Miss Hunter and representations from Ms Najah. It has taken account of the submissions made by Ms Bailey on behalf of the NMC. She submitted that Miss Hunter remains impaired as the risk of repetition still remains on the grounds of public protection. Ms Bailey further submitted that Miss Hunter has not demonstrated that she has remediated her practice since the last review hearing and has only discussed her personal situation. Ms Bailey explained that the decision on sanction is a matter for the panel's professional judgement.

The panel also had regard to submissions from Ms Najah. Ms Najah submitted that the sanctions that have been imposed since the NMC have intervened have ensured that both public protection and public interest grounds have been met. This is because Miss Hunter has shown insight into her clinical failings, there have been no issues raised within her current work, and the concerns occurred seven years ago. Ms Najah submitted that it is no longer appropriate to find that Miss Hunter's fitness to practise is impaired due to the sufficient amount of insight and the low likelihood of repetition.

Ms Najah submitted that the current conditions are too onerous and this has caused difficulty to Miss Hunter in finding a nursing role. Ms Najah explained that due to the severity and duration of Miss Hunter's sanctions, Miss Hunter feels like she has been suspended. Ms Najah referred to the last panel's recommendations in terms of training and submitted that Miss Hunter is unable to financially commit to extensive training.

Ms Najah submitted that due to the low level of risk, there should be no sanction in place and if the panel were to impose sanctions it needs to focus on training to assist her remediation.

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 Hunter's fitness to practise remains impaired.

In its consideration of whether Miss Hunter have remedied her practice, the panel took into account her personal circumstances and her reflective piece.

The panel was of the view that there is no new information before it which demonstrates that there has been any material change in this case. Miss Hunter has provided no evidence of undertaking training that specifically addresses the original misconduct identified or of keeping her nursing learning up to date. Miss Hunter's reflective piece only details her personal circumstance and does not demonstrate insight into her misconduct and regulatory concerns. For these reasons, the panel is not satisfied that Miss Hunter has remediated the concerns with her clinical practice and therefore the risk of repetition remains. The panel therefore determined that a finding of 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 Hunter's fitness to practise remains impaired.

## **Decision and reasons on sanction**

Having found Miss Hunter'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 public protection issues identified, an order that does not restrict Miss Hunter'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 Hunter'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 Hunter's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

Over a period of 3 ½ years, conditions of practice have been in place, and during that time Miss Hunter has been unable to fulfil those conditions, or show any panel a safe pathway to remediating the concerns and fulfilling those conditions. There are no evidential indicators of any meaningful progress over that period, despite the passage of time and opportunity.

The panel noted Miss Hunter's personal circumstances, but also that a number of the conditions could be addressed even if Miss Hunter is not working in the capacity of a registered nurse.

The panel next considered imposing a suspension order. The panel determined that there is evidence of a pattern of behaviour throughout all of the substantive order reviews since 2017. A nurse has a duty to take responsibility for their practice, and yet each review has highlighted that limited or no action has been taken by Miss Hunter to remediate such as:-

1. Undertaking training related to the clinical concerns, which can be done cost effectively on-line.
2. Providing reflective pieces which address the clinical concerns rather than only detailing personal circumstances
3. Compliance with those conditions of practice that are not dependent on her working as a nurse.

The panel decided in all circumstances that Miss Hunter has not demonstrated an ability or a willingness to remediate her practice. There have already been two periods of 6 month suspension orders. The panel therefore concluded that a further period of suspension would not serve to address the concerns.

The panel was mindful that it was not appropriate to place a registrant on restrictive sanctions indefinitely, and that it is neither in Miss Hunter's interests nor in the public interest to do so.

The panel concluded that a Striking-Off Order is therefore the proportionate and appropriate sanction in this case and it directs the registrar to strike Miss Hunter's name off the register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the end of 22 December 2021 in accordance with Article 30(1).

This will be confirmed to Miss Hunter in writing.

That concludes this determination.