

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

**Substantive Order Review Meeting
Monday 7 February 2022**

Virtual Meeting

Name of registrant: Mr Richard Lloyd Stone

NMC PIN: 07E2399E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health Nursing – July 2007

Area of registered address: Nottinghamshire

Type of case: Conviction

Panel members: John Penhale (Chair, Lay member)
Terry Shipperley (Registrant member)
Judith Webb (Lay member)

Legal Assessor: Ian Ashford-Thom

Hearings Coordinator: Kevin Toskaj

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking off order to come into effect on 17
March 2022 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 Mr Stone's email address by secured encrypted email on 13 December 2021.

The panel accepted the advice of the legal assessor.

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

In the light of all of the information available, the panel was satisfied that Mr Stone had 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 substantive order

The panel decided to impose a striking off order.

This order will come into effect at the end of 17 March 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 August 2019. This was reviewed on 7 August 2020 and the suspension order was extended for a further 12 months. On 4 August 2021, the suspension order was extended for a further 6 months.

The current order is due to expire at the end of 17 March 2022.

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 5 December 2017 at Nottinghamshire Magistrates Court were convicted of:

a) driving a mechanically propelled vehicle dangerously on a road

b) using a motor vehicle on a road or public place, without insurance

c) failing to stop a vehicle on being required to do so by a constable in uniform

d) failing to surrender without reasonable cause to custody at Nottinghamshire Magistrates Court, having been released on bail in criminal proceedings

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

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

'The panel considered whether Mr Stone's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mr Stone had not demonstrated insight. At this meeting the panel considered that Mr Stone has not engaged with the NMC since the previous review and has not provided a reflective statement or any other information about his current intentions with regards to returning to nursing. Mr Stone has not provided information as to his levels of insight or remorse, or engaged with the recommendations of the previous panel.

The last reviewing panel determined that a finding of impairment was only required on public interest grounds, and not to protect the public. This panel considered that there are no concerns about Mr Stone's clinical practice and there has been no

material change in circumstances. The panel therefore determined that a finding of impairment is not necessary 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 considered that due to Mr Stone's conviction and lack of engagement, public confidence in the nursing profession would be undermined should this panel not make a finding of current impairment. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is required.

For these reasons, the panel finds that Mr Stone's fitness to practise remains impaired.'

The second reviewing 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 and the public interest concerns identified. 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, an order that does not restrict Mr Stone'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 Stone's conviction and lack of recent engagement with the NMC means this case is 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 order on Mr Stone's registration would be a sufficient and appropriate response. The panel considered

that there are no clinical concerns in this case, and determined that a conditions of practice order would not be appropriate in light of this.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Stone further time to gain a full understanding of how the actions, and conviction, of one nurse can impact upon public confidence in the nursing profession as a whole.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months would provide Mr Stone with an opportunity to engage with the NMC and demonstrate insight into the impact of his conviction on public confidence in the nursing profession. It considered this to be the most appropriate and proportionate sanction available.

The panel carefully considered whether to impose a striking off order in light of Mr Stone's lack of engagement with the NMC. However, the panel noted Mr Stone's particularly challenging personal circumstances as set out in his email to the NMC on 12 May 2020 and considered that it was appropriate to give Mr Stone a further six months to engage with the NMC. The panel would remind Mr Stone that he has a duty as a registrant to meaningfully engage with his regulator as the panel has not had sight of any communication from Mr Stone since May 2020.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 17 September 2021 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing or meeting 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:

- *A statement setting out, in detail, the circumstances which led to the behaviour resulting in the conviction and his future intentions with regards to returning to nursing;*
- *A reflective account detailing what has been learnt particularly in relation to upholding the reputation of the profession;*
- *Testimonials relating to Mr Stone's previous nursing practice;*
- *References from current employers or clients;*
- *Mr Stone's engagement and attendance at any review hearing.*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Stone'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 Mr Stone's fitness to practise remains impaired.

The panel noted that Mr Stone has not constructively engaged with the NMC since May 2020. It concluded that there has not been any material change in circumstances since the order was imposed on 19 August 2019. It had no evidence before it of any steps Mr Stone has taken to provide the panel with evidence that he has insight into his conviction and how it impacts on his professional life as a registered nurse, particularly public confidence in the profession.

The panel further noted that previous correspondence from Mr Stone gives rise to concerns that there might be an attitudinal aspect to this case. In an email, dated 19 December 2018, he stated:

'I do not feel there are any as the offence was not related to work at all, and [I] always managed any workload effectively with very infrequent errors over the 10 years I have practised [sic] as a qualified nurse'.

In light of all these matters and his continued lack of engagement with his regulator, this panel determined that Mr Stone has not demonstrated any insight into his conviction and the potential impact that his conviction has on public confidence in the nursing profession.

In the absence of any new information to suggest otherwise, the panel determined that Mr Stone's fitness to practise remains impaired on public interest grounds. 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.

This panel accepted that there are no concerns about Mr Stone's clinical practice and there has been no material change in circumstances. The panel therefore determined that a finding of impairment is not necessary to protect the public.

For these reasons, the panel finds that Mr Stone's fitness to practise remains impaired on public interest grounds only.

Decision and reasons on sanction

Having found Mr Stone'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 an order that does not restrict Mr Stone's practice would not be appropriate in the circumstances. 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 on Mr Stone's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. Mr Stone has not given the panel any confidence that he would be able or willing to comply with conditions imposed on his practice. In all the circumstances the panel was not able to formulate workable conditions of practice that would adequately address the concerns relating to Mr Stone's conviction.

The panel next considered imposing a further suspension order. The panel noted that Mr Stone has had many opportunities to meaningfully address the findings of impairment of his fitness to practise and has not done so. Mr Stone has been suspended now for two and a half years since the findings were made against him. The panel was also concerned by his lack of insight into how his conviction damaged public confidence in the nursing profession. The panel determined that a further period of suspension would not serve any useful purpose in all the circumstances as Mr Stone appears to have disengaged with the NMC and there is no evidence of an intention of any future engagement.

In all the circumstances, the panel considered that public confidence in the profession and the regulatory process would not be upheld by a lesser sanction than to remove Mr Stone's name from the register. Furthermore, Mr Stone's approach to his regulator since the substantive hearing and the two previous review hearings has raised fundamental questions about his intentions to demonstrate any insight to the NMC. The panel therefore determined that it was necessary to take action to prevent Mr Stone from practising in the future and concluded that the only sanction that would be appropriate and proportionate in the current circumstances, was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 17 March 2022 in accordance with Article 30(1).

This decision will be confirmed to Mr Stone in writing.

That concludes this determination.