

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

**Substantive Order Review Meeting  
Wednesday 2 November 2022**

Virtual Meeting

**Name of registrant:** Susan Finney

**NMC PIN:** 08A1489E

**Part(s) of the register:** Registered Nurse – RNMH  
Mental Health Nursing – January 2008

**Relevant Location:** Merseyside

**Type of case:** Misconduct

**Panel members:** Richard Weydert-Jacquard (Chair, Registrant member)  
Louise Poley (Registrant member)  
June Robertson (Lay member)

**Legal Assessor:** Michael Hosford-Tanner

**Hearings Coordinator:** Dilay Bekteshi

**Order being reviewed:** Suspension order (12 months)

**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 Ms Finney was not in attendance and that the Notice of Meeting had been sent to Ms Finney's registered email address on 23 September 2022.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates 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 Ms Finney 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 striking-off order. This order will come into effect immediately in accordance with Article 30(2) 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 4 June 2021. This was reviewed on 30 November 2021 when the suspension order was imposed for a further period of 12 months.

The current order is due to expire at the end of 5 January 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. ...
2. *On or about the 6th August 2019, you administered 5mg diazepam to Patient A instead of her prescribed dose of 2 mg. **(Found proved)***
3. *You then asked Colleague B whether you could record the 5mg dose of diazepam as given pro re nata [“PRN”] **(Found proved)***
4. *Your request at 3 above was dishonest because you knew*
  - (i) *That the administration of 5mg had been made by you in error **(Found proved)***
  - (ii) *That the correct dose should have been the prescribed dose of 2mg **(Found proved)***
  - (iii) *There were no grounds to administer 5mg PRN **(Found proved)***
  - (iv) *The request was made to conceal the above factors (i)-(iii). **(Found proved)***
5. ...

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

*“The panel considered whether Ms Finney’s fitness to practise remains impaired.*

*The panel noted that there has been no new material change since the original substantive hearing. It was of the view that Ms Finney has not engaged with the NMC, and that there remains a risk of repetition as Ms Finney has not demonstrated any evidence of remediation and insight. The panel further noted that Ms Finney has not provided evidence of her current circumstances and that she has not acted upon the recommendations that were suggested by the previous panel.*

*In light of there being no new information before the panel, it was of the view that the ongoing risk to the public has not reduced since the original hearing. It*

*concluded that Ms Finney's fitness to practise remains impaired by way of her misconduct. In coming to this decision, the panel determined that a finding of current 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 Ms Finney's fitness to practise remains impaired."*

The first 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. 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 Ms Finney's practice would not be appropriate in the circumstances.*

*The panel next considered whether conditions of practice on Ms Finney'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 it may be possible to formulate conditions of practice that would adequately address the concerns relating to Ms Finney's misconduct. However, due to her lack of engagement and her lack of willingness to address the concerns found proved, the panel considered any conditions of practice order would not be workable at this time, would serve no useful purpose and therefore would not provide adequate public protection.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order may allow Ms Finney further time to develop her insight into her clinical failings and dishonesty should she decide to do so. It considered that Ms Finney needs to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further 12 months suspension order would be the appropriate and proportionate response and would afford Ms Finney adequate time to further develop her insight and complete any remediation. It would also give Ms Finney an opportunity to demonstrate that there have been no recent concerns about her honesty and integrity.*

*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.”*

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

The panel has considered carefully whether Ms Finney’s fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 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 Ms Finney’s fitness to practise remains impaired.

The panel had regard to the information before it, noting that since the previous review hearing on 30 November 2021, there had been no new information that indicates the concerns have been addressed. The only information, which had been received since that review, was an email from Ms Finney on 1 September 2022 and an email from the NMC Case Officer to Ms Finney on 23 September 2022. In the email on 1 September 2022, Ms Finney said that she has resigned her nursing registration as she no longer wants to be a part of the NMC and requested that the NMC refrain from contacting her again. It also noted Ms Finney had admitted that she had made a mistake but does not admit to covering up her mistake. Apart from these emails, Ms Finney has not engaged with these proceedings.

Given the lack of evidence regarding Ms Finney's practice and the lack of consistent engagement, the panel considered that there remains a risk of repetition as Ms Finney has not demonstrated any evidence of remediation and insight. The panel noted that there has been no further communication by Ms Finney since that email was received over five weeks ago. It further noted that Ms Finney has not acted upon the recommendations that were suggested by the previous panel. The panel therefore determined that Ms Finney's fitness to practise remains impaired by way of her misconduct. In coming to this decision, the panel determined that a finding of current impairment is necessary on the grounds of public protection.

The panel bore 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 registered nurses have a duty to engage with their regulator, and to comply with investigations, in accordance with the NMC Code of Conduct. The panel therefore determined that a finding of impairment also remains necessary on public interest grounds, by reason of Ms Finney's misconduct, in order to maintain confidence in the nursing profession and in the NMC as a regulator.

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

## Decision and reasons on sanction

Having found Ms Finney'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. The panel considered that, taking into account the email from Ms Finney in September 2022 stating that she has resigned her nursing registration and no longer wants to be part of the NMC, no further action could be appropriate, in that her registration would then lapse on the expiry of the current order. However, the panel referred to the NMC's guidance and considered that Ms Finney has not meaningfully engaged with the NMC to indicate that she no longer wishes to practice as a registered nurse. The panel also considered the email from the NMC Case Officer on 23 September 2022, which states:

*"...I'm not sure if you're aware but the NMC has introduced a process that allows orders to lapse, with an impairment finding, thus saving those who are currently impaired, and who no longer wish to continue nursing, from being struck-off. This means that this back and forth would come to an end and the NMC wouldn't have to contact you again. Please read the information regarding this on our website..."*

The panel noted that Ms Finney was afforded the opportunity to consider the suspension order being lapsed, but Ms Finney has not responded to the NMC. That is disappointing as is her unhelpful continued disengagement from the NMC which is her regulator. The panel could not be satisfied that there has been sufficient information before it to suggest that Ms Finney has shown clear indication about her future intentions. The panel therefore decided that, in the circumstances, it could not be certain that the public would be properly protected if it took 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 Ms Finney's practice would not be appropriate in the circumstances. The panel considered that Ms Finney'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 Ms Finney'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, involving dishonesty, and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. There is no evidence before the panel today that would suggest that Ms Finney would comply with a conditions of practice order. The panel therefore decided that any conditions of practice order would not be workable and would serve no useful purpose.

The panel next considered imposing a further suspension order. It considered that it has no new evidence before it today that would indicate Ms Finney has taken steps to address the concerns. This is the second review of this case, and even after two periods of suspension, Ms Finney has shown a lack of engagement and had indicated in September 2022 that she does not wish to engage with the NMC. The last reviewing panel had provided Ms Finney with another opportunity to engage with the proceedings and had clearly set out the evidence requested of her, but this has not been provided. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances and that the public interest will be best served by not prolonging proceedings any longer than necessary.

It concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. Honesty is a fundamental tenet of the nursing profession. Although Ms Finney has not accepted her dishonesty, this is a case where dishonesty was found proved by the substantive panel concerning patient care which raised concerns of public protection which needed to be addressed. Furthermore, Ms Finney was offered the opportunity by the NMC to request that her registration lapse without further sanction but did not accept this offer. In view of the fact that Ms Finney has had ample time to reflect upon the requirements that the previous panel had set out and



has unfortunately chosen not to do so, the panel determined that a striking-off order was no longer unduly punitive and now appropriate.

This striking-off order will replace the current suspension order with immediate effect in accordance with Article 30(2).

This decision will be confirmed to Ms Finney in writing.

That concludes this determination.