

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

**Substantive Order Review Hearing  
Thursday, 20 April 2023**

Virtual Hearing

**Name of Registrant:** Matthew Patrick Brannigan

**NMC PIN** 10K1468E

**Part(s) of the register:** Registered Nurse – Sub part 1  
RNA: Adult Nursing – 21 February 2011

**Relevant Location:** Nottinghamshire

**Type of case:** Lack of competence

**Panel members:** Nicola Dale (Chair, Lay member)  
Carol Porteous (Registrant member)  
Anthony Mole (Lay member)

**Legal Assessor:** Justin Gau

**Hearings Coordinator:** Dilay Bekteshi

**Nursing and Midwifery Council:** Represented by Madeleine Semple, Case Presenter

**Mr Brannigan:** Present but not represented

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

**Fitness to practise:** Impaired

**Outcome:** Conditions of practice order (12 months) to come into effect at the end of 29 April 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

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

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

This order will come into effect at the end of 29 April 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the sixth review of a substantive suspension order, originally imposed by a Fitness to Practise Committee on 25 September 2017 for a period of twelve months. The order was first reviewed on 20 September 2018 when a further suspension order for a period of twelve months was imposed. It was reviewed again on 18 September 2019 when the suspension order was extended for a further six months. The third review took place on 31 January 2020 when the order was extended again for a further six months. On 23 September 2020 the suspension order was replaced with a conditions of practice order for two years. On 25 October 2022, the conditions of practice order was replaced with a suspension order for a period of six months.

The current order is due to expire at the end of 29 April 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, whilst employed as a registered nurse on the 'Out of Practice/Return to Practice Programme' ("OOP") at Nottinghamshire Healthcare Trust ("the Trust"), between approximately 14 March 2016 and 31 July 2016, failed to demonstrate the standards of knowledge, skill and judgement needed to complete the OOP and meet the competencies of a Band 5 nurse, in that:*

- 1. On or about 14 March 2016 you were unable to attach a catheter bag to a patient's leg with a Velcro strap.*

2. *On one or more occasions you were unable to use a hoist sling to lift a patient, despite having been repeatedly shown how to use the hoist and/or having undertaken manual handling training.*
3. *On a date in or around March or April 2016, you inappropriately placed a patient's heel, which had a Stage Three pressure ulcer, in direct contact with a stool, rather than elevating the heel over the stool to relieve the pressure.*
4. *On or about 17 April 2016, you failed to take adequate action when a patient collapsed, in that you:*
  - 4.1. *did not pull the emergency bell;*
  - 4.2. *stood back when Mr 1, Band 3 Senior Healthcare Assistant, came over to see the patient;*
  - 4.3. *did not assist Mr 1 to move the patient onto her bed, despite Mr 1 asking you to do so;*
  - 4.4. *did not retrieve the blood pressure machine, despite Mr 1 asking you to do so;*
  - 4.5. *stated to Mr 1, words to the effect to that, you did not know where the blood pressure machine was.*
5. *In May 2016, you were unable to carry out one or more patient handovers to Mr 1 beyond providing Mr 1 with the information which was already written on the handover sheets.*
6. *On or about, 5 May 2016, you gave a patient a plate of dinner without having adequately checked the transfer sheet for the patient's dietary needs.*
7. *On one or more dates when Ms1, Band 5 Nurse, asked you to complete a social work referral form including details of the names and/or addresses of the patient's next of kin, you refused to do so without Ms 1's supervision and/or despite having been shown how to do so.*

8. *On one occasion when Ms 1, Band 5 Nurse, asked you to prepare a non-complex dressing for a patient, you stated, words to the effect that you needed Ms 1's supervision, when you had previously done such a dressing before under supervision and/or had been assessed as competent to do this type of dressing.*
  
9. *On or about 15 May 2016, when Ms 1, Band 5 Nurse, asked you to carry out a bladder scan on a patient:*
  - 9.1. *you were unable to do so without supervision;*
  - 9.2. *after Ms 1 started to supervise you, you did not know how to turn on the machine and/or know where to put the probe, despite being shown how to carry out the scan previously;*
  
10. *On or about 15 May 2016, in response to a question from Ms 1 regarding administering an enema and/or carrying out a rectal exam on a patient, you stated words to the effect that;*
  - 10.1. *you had given an enema and/or carried out a rectal exam previously; and/or*
  - 10.2. *you would lie the patient on their right side to carry out an enema, when you knew or ought to have known this could result in a perforated rectum.*
  
12. *After 23 May 2016:*
  - a) *you started working at below a Band 2 level;*
  - b) *on one or more occasions you had to check with a Health Care Assistant whether you needed to undertake patient observations.*
  
13. *On or about 29 June 2016, at another meeting to discuss your progress with the OOP, you stated, words to the effect, that there was nothing wrong with your practice.*

14. *You were unable to satisfactorily complete the OOP and/or meet the competencies of a Band 5 nurse.*

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

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

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

*The last reviewing panel found that Mr Brannigan's insight had improved significantly. However, today's panel did not have any further evidence of developing insight.*

*The panel determined that there is no new evidence before it to suggest that Mr Brannigan is no longer impaired. Other than an unsuccessful application to Manchester Metropolitan University in August 2021, the panel did not have any evidence to suggest that Mr Brannigan has taken steps to strengthen his practice and/or undertaken any training courses, either in person or online despite the short comings found proved in 2017, being capable of remediation. In light of Mr Brannigan's limited insight, remediation and meaningful engagement, the panel determined that a finding of current impairment remains necessary on the grounds of public protection.*

*Furthermore, the panel is of the view that a well-informed member of the public would be concerned if Mr Brannigan were not to be found impaired, as he has not taken the necessary action required to strengthen his practice in relation to the concerns found proved. 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 Mr Brannigan fitness to practise remains impaired.'*

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

*'The panel first considered whether to take no action and to allow the order to lapse. The panel carefully considered the NMC's guidance in this regard and determined that it did not have enough information before it to be satisfied of Mr Brannigan's future plans and intentions away from nursing practice. Whilst some indication has been received from Mr Brannigan that he wishes to be removed from the register, the panel noted that in an email on 23 October 2022, he stated:*

*"I do want to return as a Nurse and I have tried various routes to try and rectify my Conditions of Practice order."*

*In light of this communication and the ambiguity surrounding Mr Brannigan's future intentions, the panel decided that it would be neither proportionate nor in the public interest to take no further action thus allowing the order to lapse.*

*The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the charges found proved, and the public protection issues identified, an order that does not restrict Mr Brannigan'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 the continuation of the current conditions of practice order. The panel noted that Mr Brannigan has been subject to the current order for two years and that no meaningful efforts have been made by him to engage with those conditions during that time. Further, Mr Brannigan has not practised as a nurse since 2016 and save for his unsuccessful application to enrol upon a RTPC, the panel has seen no other evidence of his intentions to find employment as a nurse. On this basis, the panel concluded that a conditions of practice order is no longer the practicable or appropriate order in this case. The panel concluded that no*

*workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.*

*The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months. This period would allow Mr Brannigan a short period to fully reflect on his shortcomings, all of which the panel determined were capable of remediation. It would also provide Mr Brannigan with an important opportunity to engage meaningfully with the NMC and provide a clear and unambiguous explanation as to his future intentions in relation to practising as a nurse. 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. It considered this to be the most appropriate and proportionate sanction available.*

*The panel seriously considered imposing a striking off order. The incidents in this case arose in 2016 and Mr Brannigan has not worked as a registered nurse since July of that year. Whilst the panel acknowledged the significant amount of time which has elapsed since the substantive order was imposed, it has noted Mr Brannigan's difficult personal circumstances and determined that it would be fair to allow Mr Brannigan a short period of time to reflect on his future plans.*

...

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

- Mr Brannigan's attendance at a review hearing;*
- Details of Mr Brannigan's future intentions as to his future nursing career;*
- Should Mr Brannigan wish to pursue a career in nursing, a reviewing panel would be assisted by a up to date reflective piece and evidence of any training undertaken by him.'*

## **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 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 has had regard to all of the documentation before it, including the NMC bundle, and your bundle including a Personal Development Plan (PDP), reflection, testimonials and online training certificates. It has taken account of the submissions made by Ms Semple on behalf of the NMC and your submissions.

Ms Semple outlined the background of the case and referred the panel to the relevant documentation. She reminded the panel of the decisions taken at the previous substantive review hearings. Ms Semple submitted that you remain impaired, but you have demonstrated a changing mindset and attitude over the last six months since the last review of the suspension order, including expressing a clear and focused intention to return to nursing.

In respect of sanction, Ms Semple submitted that she is neutral as to what the panel may impose, and she would not oppose the imposition of a conditions of practice order. By way of the procedural background of this order, she told the panel that on the fourth review on 23 September 2020, that suspension order was replaced with a conditions of practice order for a period of two years. In doing so, the panel was of the view that a conditions of practice order would give you the opportunity to demonstrate that you were able to transfer the learning that you had undertaken during your period of suspension to that clinical setting. Ms Semple said that the most recent review of that order in October 2022, the panel re-imposed a suspension order for a period of six months. It did so because there was no evidence before it to suggest that you had taken steps to strengthen your practice and you had failed to engage with the NMC meaningfully. It was also decided by that panel that a suspension order would give you the opportunity to engage meaningfully with the



NMC and provide a clear and unambiguous explanation as to your future intentions in relation to practicing as a nurse.

Ms Semple submitted that you remain impaired. You have been suspended for the majority of the last five and a half years and therefore you have not been working as a registered nurse. However, Ms Semple submitted that before the panel today, you have provided key documents which the previous panel did not have the benefit of seeing, including the completion of various online courses, testimonials, a PDP and an up-to-date reflection.

Addressing the online courses undertaken by you, Ms Semple submitted that those courses do not directly address the clinical concerns, with only one or two being directly relevant to nursing, such as handling medication and avoiding drug errors. However, Ms Semple submitted that these certificates are indicative that you are clearly taking steps to develop and improve your knowledge and skills. In relation to the PDP, she submitted that this plan indicates a full reflection on your attitude towards nursing.

Ms Semple submitted that a finding of impairment remains necessary on grounds of public protection and public interest. She submitted that if the panel is minded to impose a conditions of practice order, she invited the panel to make it in the same or similar comprehensive and stringent terms that the previous conditions of practice order was imposed.

You told the panel that you have been in the nursing profession for a very long time and that you would not have imagined doing anything else. You also said you have had sufficient time to reflect on your shortcomings as a registered nurse. You said you want to go forward as a nurse and that you understand a conditions of practice order is designed to help and support you. You said you would not make the same mistakes you have made in the past and you know where you need to be as a nurse.

In response to panel questions, you said you know what your clinical failings were, and you know what you need to do in order to reflect on them. You said that in clinical practice if anything goes wrong, you go away and reflect on what new learning you can take away. You told the panel that you worked as a nurse in a local trust with a colleague who was

honest and told you that you are not where you need to be at. You said you knew that you were not at the standard expected of a registered nurse. You said that insight is about understanding the situation and looking back at the process. You said you have been reading; you have looked at your professional portfolio and looked at what you could do to do better in the future. You also accepted that you have *'made loads of mistakes.'*

You said that your actions have had a negative impact on patients and the nursing profession. You said when people see a qualified nurse, there is a level of expectancy of being a competent nurse who abides by the NMC Code. You said you need to be a qualified Band 5 nurse who is competent, accountable, honest and candid when things go wrong.

Going forward, you said you looked at the conditions of practice and that you are interested in applying to a return to practice course. You said you would apply for various nursing roles and see what comes back. You also said you touched base with a matron in Manchester and that they provide a Band 3 course which may be something you will pursue as a starting point. You told the panel that you are *'trying to put my foot in the door'*.

## **Decision and reasons on impairment**

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the PDP, training certificates and testimonials provided together with your reflections. The panel determined that you have taken some steps in an effort to strengthen your practice but, because you have not been working as a registered nurse these steps have been limited and you have not been able to strengthen your practice.

This panel has received the documentation as outlined above. It noted the training certificates provided and determined that these are general in nature and do not address the areas of concern outlined in the original charges. The panel therefore determined that this training does not deal with the risk of repetition. It also noted that whilst the testimonials provided were positive, they only related to your role as an HCA and therefore the panel determined that these testimonials are not sufficient to determine that a finding of impairment is not necessary. In light of this the panel determined that you are liable to repeat matters of the kind found proved. 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.

## Decision and reasons on sanction

Having found your 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 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 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 lack of competence 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 was mindful that the proceedings have been ongoing for over five years since you were first referred to the NMC. It noted that the charges found proved in this case might not ordinarily lead to a suspension or striking off order, but your actions and inactions since the imposition of the order was a cause for serious concern. The panel considered extending the current suspension order but felt that a further period of suspension, after so many, would serve no purpose. The panel also seriously considered a striking off order due to the length of time and limited progress that has been made since this matter began. However, in today's hearing you have demonstrated a willingness to strengthen your practice and have made some efforts to address the concerns identified. It therefore decided that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice, and would serve to protect the public and the reputation of the profession in the meantime.

The panel wish to make it clear that if you decide to disengage with the NMC and the conditions, this may indicate attitudinal concerns, and a future reviewing panel would be likely to consider that a conditions of practice order would no longer be sufficient to protect the public and satisfy the public interest.

The panel therefore decided that the public would be suitably protected as would the reputation of the profession by the implementation of the following conditions of practice:

‘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 undertake an NMC approved return to practice course prior to undertaking any nursing duties.
2. You must limit your nursing practice to day duties only at one substantive employer in an NHS setting and you must not be the nurse in charge of a shift;
3. You must ensure that you are working under the direct supervision of a Band 6 nurse or above at any time whilst working as a registered nurse.
4. You must work with your supervisor or their deputy to create a personal development plan (PDP). Your PDP must in particular address the following regulatory concerns:
  - a) Patient moving and handling;
  - b) Tissue viability;
  - c) Assessing the acutely ill patient and escalation;
  - d) Medicines administration and management – this must include undertaking a medications administration assessment; and
  - e) Patient assessment, assessment of risk and patient handover;

You must also:

- i. Meet with your supervisor or their deputy every two weeks to discuss your progress towards achieving the aims set out in your PDP;
  - ii. Send your case officer a verification of the completed return to practice programme along with your PDP 28 days before any NMC review hearing; and
  - iii. Send your case officer a report from your supervisor or their deputy 28 days before any NMC review hearing. This report must show your progress towards achieving the aims set out in your PDP.
  
5. 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.
  
6. 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.
  
7. 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.
  
8. You must tell your NMC 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.

9. You must allow your NMC 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 twelve months. The panel determined this would be an appropriate length of time to support you in your return to nursing practice and to gather evidence that you have complied with the current conditions of practice order in preparation for the next review hearing.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 29 April 2023 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:

- Your continued engagement;
- Evidence of professional development and training;
- A reflective piece to demonstrate developing insight to include what you would now do differently;
- Testimonials directed to the NMC from a work or educational placement targeted at your level of competence in a nursing environment.

This will be confirmed to you in writing.

That concludes this determination.