

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

**Substantive Order Review Meeting  
Monday 16 January 2023**

**Virtual Meeting**

**Name of registrant:** Gareth Steven Brandwood

**NMC PIN:** 08D1232E

**Part(s) of the register:** Registered Nurse  
Mental Health Nursing – 24 September 2008

**Relevant Location:** Cornwall

**Type of Case:** Misconduct

**Panel members:** Avril O'Meara (Chair, Lay member)  
Jacqueline Metcalfe (Registrant member)  
Helen Louise Eatherton (Registrant member)

**Legal Assessor:** Fiona Moore

**Hearings Coordinator:** Petra Bernard

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

**Fitness to practise:** Impaired

**Outcome:** **Striking-off order to come into effect at the end of 28 February 2023, in accordance with Article 30(1)**

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

The panel noted that a Notice of Meeting was sent by recorded delivery and first-class post to Mr Brandwood's registered address on 2 December 2022. The Notice of Meeting informed Mr Brandwood that his case would be considered at a meeting no sooner than 16 January 2023.

The panel accepted the advice of the legal assessor.

The panel considered whether notice of this meeting had been served in accordance with Rules 11a and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules). It noted that the address to which the Notice of Meeting was sent, is the one that Mr Brandwood has provided on the Nursing and Midwifery Council's (NMC) register.

In the light of all of the information available, the panel was satisfied that Mr Brandwood has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Rules.

The panel noted that Mr Brandwood has not requested a hearing and not engaged with these regulatory proceedings since he was referred to the NMC in 2019.

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

The panel decided to impose a striking-off order. This will come into effect at the end of 28 February 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive order originally imposed as a 6 month suspension order by a Fitness to Practise panel on 2 August 2021. The order was reviewed at a meeting on 19 January 2022 when a further suspension order was imposed for a period of 12 months.

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. Between 23 November 2018 and 10 December 2018;*

*a. Failed to maintain accurate records of a patient's prescribed medication in that you made no record of administering a depot injection to the patient.*

*b. Failed to manage a patient's medication safely in that you were unable to remember whether or not you had administered the patient's depot injection.*

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

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

*'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 was of the view that there has not been any material change in circumstance since the order was made in August 2021. It had no evidence before it of any steps Mr Brandwood has taken to strengthen his practice or to address the concerns raised at the substantive hearing.*

*As a result of Mr Brandwood not having worked as a nurse since December 2018, and in the absence of any evidence to demonstrate a willingness to address the concerns raised, the panel determined that there remains a significant risk of harm to patients. It noted that the previous reviewing panel made recommendations as to what Mr Brandwood could provide to this panel but noted that no such information*

*had been provided. The panel noted that Mr Brandwood has not engaged with the NMC in any capacity since he was first referred in 2019.*

*With regard to the panel having found that Mr Brandwood poses a significant risk of harm to patients, it determined 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, taking into account the seriousness of the concerns, a finding of continuing impairment on public interest grounds is also required.*

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

The same 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 risk of repetition identified. Taking no further action would not restrict Mr Brandwood's practice and therefore would not protect the public. The panel decided that it would be neither proportionate nor in the public interest to take no further action.*

*The panel next considered whether to impose a caution order but concluded that this would also be inappropriate for the same reasons.*

*The panel next considered replacing the suspension order with a conditions of practice order. While it considered that the concerns raised could potentially be addressed by such an order, it had no information before to satisfy itself that conditions of practice would be workable. Mr Brandwood has not provided any indication of his future nursing plans or willingness to engage with a conditions of practice order. The panel therefore concluded that a conditions of practice order would be inappropriate.*

*The panel therefore moved on to consider a further period of suspension. It bore in mind that Mr Brandwood has not engaged with the NMC since 2019 and has provided no evidence of efforts made to strengthen his practice or develop his insight into the impact of his actions on the nursing profession. The panel noted that Mr Brandwood had [PRIVATE] his previous employer in 2018 and it had no information before it to suggest that these [PRIVATE] were no longer pertinent. While it considered Mr Brandwood's period of abject disengagement with the NMC to be concerning, it determined that a further period of suspension would afford Mr Brandwood the opportunity to re-engage with the NMC or to advise it of his alternative career intentions.*

*The panel went on to consider a striking-off order but considered that it would be unduly punitive at this stage, the first review. It could not be satisfied that Mr Brandwood's [PRIVATE] have abated and that to strike him off at this stage would be dismissive of those [PRIVATE]. The panel wishes to make it clear that, should Mr Brandwood continue to disengage with the NMC, the next reviewing panel will also strongly consider a striking-off order.'*

*In accordance with Article 30(1) of the Order, this suspension order will come into effect upon the expiry of the existing suspension order, namely at the end of 28 February 2022.'*

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

The panel has considered carefully whether Mr Brandwood'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 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 was of the view that there has not been any material change in circumstance since the order was made in August 2021. It had no evidence before it of any insight or remorse, nor any steps Mr Brandwood has taken to strengthen his practice nor address the concerns raised at the substantive hearing or engage with these proceedings. The panel noted that Mr Brandwood did appear to [PRIVATE] around the time of the referral in 2019, but again, it had no further information in relation to this.

In the absence of any evidence to demonstrate a willingness to address the concerns raised, the panel determined that there remains a significant risk of harm to patients. It noted that the previous reviewing panel made recommendations as to what Mr Brandwood could provide to a future reviewing panel however it noted that no such information had been provided. The panel noted that Mr Brandwood has not engaged with the NMC since he was first referred in 2019.

With regard to the panel having found that Mr Brandwood poses a significant risk of harm to patients, it determined 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, taking into account the seriousness of the concerns, a finding of continuing impairment on public interest grounds is also required.

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

## **Decision and reasons on sanction**

Having found Mr Brandwood'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 sanction guidance 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 risk of repetition identified. Taking no further action would not restrict Mr Brandwood's practice and therefore would not protect the public. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel next considered whether to impose a caution order but concluded that this would also be inappropriate for the same reasons.

The panel next considered replacing the suspension order with a conditions of practice order. While it considered that the concerns raised could potentially be addressed by such an order, it had no information before to satisfy itself that conditions of practice would be workable. Mr Brandwood has not provided any indication of his future nursing plans or willingness to engage with a conditions of practice order. The panel therefore concluded that a conditions of practice order would be inappropriate.

The panel therefore moved on to consider a further period of suspension. It bore in mind that Mr Brandwood has not engaged with the NMC since 2019 and has provided no evidence of efforts made to strengthen his practice or develop his insight into the impact of his actions on the nursing profession. The panel noted that Mr Brandwood appears to have [PRIVATE]. However, it had no information before it to suggest that this [PRIVATE] was still present or not. The panel considered that despite two suspension orders, one for six months and another for twelve months, Mr Brandwood has not engaged with the NMC. The panel noted the previous reviewing panel's suggestions as to what may be of assistance to a future reviewing panel, as follows:

*'A future reviewing panel may be assisted by the following:*

- *Mr Brandwood's engagement with the NMC;*
- *References and/or testimonials from any work undertaken (paid or unpaid);*
- *Proof of any relevant nursing training/reading completed; and*
- *A reflective piece that addresses the concerns raised'*

The panel determined that none of the above items and actions have been forthcoming from Mr Brandwood. In these circumstances the panel determined that a further period of suspension would not serve any useful purpose.

The panel noted that the previous reviewing panel had made it clear that, should Mr Brandwood continue to disengage with the NMC, the next reviewing panel will also *'strongly consider a striking-off order'*. This panel determined that despite Mr Brandwood having had sufficient time provide evidence and to engage with the NMC, he had not done so since he was referred to the NMC in 2019. The panel determined that the public, the profession, and the NMC as its regulator would expect the removal of registrants who persistently fail to engage with the regulatory process. The panel was satisfied that it is in the public interest that Mr Brandwood is permanently removed from the Register.

The panel determined that it was necessary to take action to prevent Mr Brandwood from practising in the future and concluded that the only sanction that is appropriate and proportionate, and that would now adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mr Brandwood's name off the register.

This striking-off order will take effect upon the expiry of the current suspension order, namely at the end of 28 February 2023 in accordance with Article 30(1).

This decision will be confirmed to Mr Brandwood in writing.

That concludes this determination.