

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

**Substantive Order Review Meeting
Monday, 12 June 2023**

Virtual Meeting

Name of registrant: Miss Gaynor Keightley

NMC PIN: 81B1030E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health – July 1983

Registered Nurse – Sub Part 2
Mental Health Nursing – July 1980

Relevant location: Leicestershire

Type of case: Misconduct

Panel members: Derek McFaul (Chair, Lay member)
Jane Jones (Registrant member)
Michael Glickman (Lay member)

Legal Assessor: Breige Gilmore

Hearings Coordinator: Daisy Sims

Order being reviewed: Suspension order (12 months)

Outcome: **Striking off order to come into effect on 26
July 2023 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 Miss Keightley's registered email address by secure email on 30 March 2022.

The panel took into account that the Notice of Meeting provided details of the review including that this meeting would be held no sooner than 12 June 2023.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Keightley 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 at the end of 26 July 2023 in accordance with Article 30(1) 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 six months by a Fitness to Practise Committee panel on 22 December 2021. This was reviewed on 9 June 2022 where the order was extended for a further twelve months.

The current order is due to expire at the end of 26 July 2023.

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

The charge found proved which resulted in the imposition of the substantive order was as follows:

"That you, a Registered Nurse:

1) ...

- 2) ...
- 3) ...

- 4) *On 29 January 2019 and without clinical justification you sent text messages to Patient A asking her to supply you with Zolpidem*

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

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

‘The panel bore in mind the seriousness of Miss Keightley’s misconduct. It noted that Patient A was put at an unwarranted risk of harm as a result of Miss Keightley’s actions. It also noted the power imbalance between Miss Keightley and Patient A, in which Patient A may have felt obliged to provide the requested medication to Miss Keightley. The panel considered that Miss Keightley’s conduct would have deprived Patient A of her prescribed medication.

The panel noted that the original panel found that there was no evidence of insight or any steps Miss Keightley had taken to strengthen her practice at the time. This panel had no new information before it. There was nothing before the panel to suggest that since the substantive hearing, in December 2021, Miss Keightley has taken any steps to address the concerns identified in her nursing practice.

The original panel determined that Miss Keightley was liable to repeat matters of the kind found proved. Today’s panel has received no further information to demonstrate that this risk is alleviated. In light of this the panel determined that Miss Keightley is liable to repeat matters of the kind found proved.

In the absence of any evidence to indicate that the risks previously identified had been addressed in any way, the panel determined that Miss Keightley’s fitness to practise remains impaired on the grounds of public protection.

The panel has borne in mind that its primary function is to protect both patients and also 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 Keightley's fitness to practise remains impaired.

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

[...]

The panel next considered whether placing conditions of practice on Miss Keightley'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 agreed with the previous panel in that the misconduct in this case is remediable and could potentially have been addressed by conditions of practice if Miss Keightley had demonstrated insight, shown a willingness to strengthen her practice and engaged with these proceedings. It concluded however that in the current circumstances it could not formulate conditions that would be both workable and provide the necessary degree of protection for the public as it could not be assured that Miss Keightley would comply.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Keightley further time to fully reflect on her previous failings. The panel concluded that a further 12 months suspension order would be the appropriate and proportionate response and would afford Miss Keightley adequate time to demonstrate insight, an opportunity to engage with the NMC and take steps to strengthen her practice.

The panel considered carefully if a striking off order was the appropriate sanction in this case. It determined that this was not yet an appropriate or proportionate

response to the matters found proved, but reminded itself that a future panel would consider this afresh when reviewing the order of this panel.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 26 July 2022 in accordance with Article 30(1).'

Decision and reasons on current impairment

The current reviewing panel has considered carefully whether Miss Keightley'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 heard and accepted the advice of the legal assessor.

The panel noted that there has been no new information from Miss Keightley to indicate whether she has reflected on her misconduct. The panel noted that there was no evidence before it to demonstrate that Miss Keightley has gained insight or remediated her practice. In view of this the panel agreed with the previous panel's assessment and determined that Miss Keightley has not demonstrated any level of insight or remediation.

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 Keightley's fitness to practise remains impaired.

The last reviewing panel determined that Miss Keightley was liable to repeat matters of the kind found proved. Today's panel has no new information and so determined that there continues to be a risk of repetition. 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 to highlight her failure to engage with her regulator as she is required to do and to maintain confidence in the NMC as regulator. In addition, the panel determined that as Miss Keighley had failed to address the misconduct in this case and has not taken any steps to strengthen her practice, a finding on public interest grounds was also necessary to uphold proper standards of conduct and performance.

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

Decision and reasons on sanction

Having found Miss Keightley'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 nor would it protect patients or the public.

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 Miss Keightley'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 Keightley'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 Keightley'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 that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Keightley's misconduct. The panel noted the email from Miss Keightley dated 27 July 2021 in which she stated, '*I wish to be removed from the register and applied to do so around 18 months ago*'. In view of Miss Keightley's intention not to return to nursing, the panel considered 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. The panel noted that Miss Keightley has not engaged with the NMC since 27 July 2021 which predates the substantive hearing. Further, Miss Keighley as a result, has not provided any evidence of insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Miss Keightley no longer posed a risk to the public. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel determined that it was necessary to take action to prevent Miss Keightley from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

The panel also considered the email from Miss Keightley dated 27 July 2021 in which she stated she would like to be removed from the register. It noted that she had not acted on the recommendations of the previous reviewing panel by clearly indicating to the NMC; '*Confirmation [...] regarding her future intentions toward her nursing career, and specifically whether she has any clear intention to retire.*' It determined however that given this initial statement and the length of time that she has been subject to a suspension

order, the expeditious disposal of this case would be in the public interest and would adequately protect the public.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 26 July 2023 in accordance with Article 30(1).

This decision will be confirmed to Miss Keightley in writing.

That concludes this determination.