

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

**Substantive Order Review Meeting
30 June 2023**

Virtual Meeting

Name of registrant: **Margaret Ann Logan**

NMC PIN: 72I2802E

Part(s) of the register: Registered Nurse: Sub Part 1
Adult Nurse (Level 1): 14 January 1976

Relevant Location: Torbay

Type of case: Misconduct

Panel members: Des McMorrow (Chair, Registrant member)
Lorraine Shaw (Registrant member)
Caroline Taylor (Lay member)

Legal Assessor: Paul Housego

Hearings Coordinator: Renee Melton-Klein

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance
with Article 30 (1), namely 31 July 2023**

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 Logan's registered email address by secure email on 1 June 2023.

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 fact that this meeting was heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Logan 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 let the order lapse. It will lapse at the end of 31 July 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 30 June 2022.

The current order is due to expire at the end of 31 July 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. On 23 September 2018 incorrectly recorded the times at which you administered medication to one or more of the following Residents and/or did not give one or more of the following Residents their medication when they were due:

[PROVED]

- a. Resident M;
- b. Resident O;
- c. Resident P;
- d. Resident Q;
- e. Resident D;
- f. Resident B;
- g. Resident F;
- h. Resident E;
- i. Resident C;
- j. Resident T;
- k. Resident A;
- l. Resident N.

1. On 17 September 2019 incorrectly recorded the times at which you administered medication to one or more of the following Residents and/or did not give one or more of the following Residents their medication when they were due:

[PROVED]

- a. Resident Q;
- b. Resident NN;
- c. Resident OO;
- d. Resident E;
- e. Resident C;
- f. Resident K;
- g. Resident PP;
- h. Resident J;
- i. Resident QQ;
- j. Resident H;
- k. Resident I;
- l. Resident G;
- m. Resident A.

2. *On 29 September 2019 incorrectly recorded the times at which you administered medication to one or more of the following Residents and/or did not give one or more of the following Residents their medication when they were due:*

[PROVED]

- a. *Resident O;*
- b. *Resident Q;*
- c. *Resident OO;*
- d. *Resident F;*
- e. *Resident E;*
- f. *Resident K;*
- g. *Resident PP;*
- h. *Resident I;*
- i. *Resident A;*
- j. *Resident H.*

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

The original panel determined the following with regard to impairment:

'The panel next went on to decide if as a result of the misconduct, Miss Logan's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d)'*

The panel considered limbs a, b, and c to be engaged, both as to the past and to the future.

The panel had found residents in Miss Logan's nursing care to have been exposed to an unwarranted risk of harm. Furthermore, having breached multiple provisions

of the Code, the panel determined that Miss Logan's misconduct had breached basic fundamental tenets of the nursing profession and therefore brought the nursing profession into disrepute.

The panel considered that Miss Logan demonstrated limited insight in relation to the charges found proved. Whilst Miss Logan had admitted to the making incorrect time entries on the MAR chart in relation to when the medications were administered during the local investigations, the panel was not satisfied that she fully understood or appreciated the consequences of her actions. Miss Logan has not provided any reflections as to how her actions impacted the residents under her care, her colleagues, the nursing profession and the wider public as a whole.

Furthermore, Miss Logan did not provide the panel with any evidence of any training she has undertaken or provided an explanation as to what she would do differently if she were to be faced with a similar set of circumstances in future. The panel noted that the Home had provided Miss Logan with support since the 2018 incident. However, despite having received adjustments and the PIP to assist in her medicines administration, Miss Logan continued to make the same errors in 2019. The panel was of the view that this has demonstrated a repeated pattern of behaviour over a prolonged period of time and a lack of insight into her failings. Further, the panel noted from the evidence that there were concerns regarding Miss Logan's availability when colleagues were requesting assistance but that no other concerns were raised with her nursing practice. In taking account of the above, the panel did not consider Miss Logan to have insight into her failures.

In light of all the above, the panel had insufficient evidence before it to allay its concerns that Miss Logan currently poses a risk to patient safety. It found there to be a real risk of repetition. Therefore, the panel considered there to be a risk of harm to patients in Miss Logan's care, should adequate safeguards not be imposed on her nursing practice. As such, the panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients,

and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel considered there to be a public interest in the circumstances of this case. It was of the view that a fully informed member of the public would be concerned by the panel's findings on facts and misconduct. It concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Miss Logan's fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'Having found Miss Logan's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the Sanctions Guidance (SG). The decision on sanction, however, is a matter for the panel to independently exercise its own judgement.

The panel took into account the following aggravating features:

- *Lack of insight into failings;*
- *A pattern of misconduct over a prolonged period of time despite having support and adjustments made by the Home;*
- *Conduct which put vulnerable patients at serious risk of suffering harm; and*
- *Blaming the equipment (such as a laptop, iPad or Wi-Fi connection) for the misconduct.*

[PRIVATE]. However, it did not have sufficient information or evidence before it to confirm this.

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 and would not protect the public from harm.

The panel 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 Logan'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.' It considered that Miss Logan'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, and would not protect the public from harm.

The panel next considered whether placing conditions of practice on Miss Logan'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 was of the view that conditions could be formulated to address the risks identified in relation to medication administration. However, in taking into account Miss Logan's lack of insight into her failings and her non engagement with the proceedings, the panel was not satisfied that conditions of practice could address the public protection and public interest elements of this case. Currently, there is no evidence that Miss Logan appreciates the serious ramifications her failings could have had on residents and their families, colleagues, the nursing profession and the wider public in this respect.

Furthermore, the panel saw no evidence that Miss Logan was working as a nurse, noting that she has retired. It concluded that no practical or workable conditions could be formulated. The panel was not satisfied that placing conditions on Miss

Logan's registration would adequately address the seriousness of this case, would not protect the public and meet the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel considered whether the seriousness of the facts found proved in this case could be addressed by temporary removal from the NMC Register and whether a period of suspension would be sufficient to protect patients and satisfy the wider public interest concerns. When considering seriousness, the panel took into account the extent of the departure from the standards to be expected of a registered nurse and the risk of harm to the public interest caused by that departure.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register, therefore a suspension order would be the appropriate and proportionate sanction in this case.

Although there had been a clear breach of a fundamental tenet of the nursing profession and a departure from a number of standards of the Code, the panel had determined Miss Logan's misconduct is capable of remediation, in principle. The panel was of the view that Miss Logan should have the opportunity to demonstrate the impact her failings have had on the residents, colleagues, and the wider public interest. The panel noted that Miss Logan had been practising as a registered nurse for over 40 years.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel also carefully considered the submissions of Mr Way in relation to the sanction that the NMC was seeking in this case. However, the panel was not satisfied that a striking-off order would be proportionate. In taking account of all the information before it, the panel determined that, albeit serious, Miss Logan's misconduct is not fundamentally incompatible with ongoing registration and that the public interest considerations can be satisfied by a less severe outcome than permanent removal from the NMC register. The panel was of the view that Miss Logan should be afforded the opportunity to demonstrate that she has insight into her failings and the impact it had on the residents, colleagues and public.

Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Logan's case to impose a striking-off order.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct and to give Miss Logan the opportunity to demonstrate insight.

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

- Miss Logan's engagement with the NMC;*
- Miss Logan's attendance at the next review hearing;*
- A reflective piece, using a recognised model (E.g. Gibbs), demonstrating any insight, remorse and steps she has taken to strengthen her practice. It should identify the impact of not accurately recording the time of the administration of medication to vulnerable residents and patients; and*
- Any recent testimonials or references from employers, whether in paid or unpaid employment.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Logan'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, 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 Miss Logan's fitness to practise remains impaired.

The panel noted that the original panel found that Miss Logan had limited insight and determined that Miss Logan was liable to repeat matters of the kind found proved.

Today's panel has received no new information in relation to these matters and understands that Miss Logan ceased to practise as a nurse in 2020. As there is nothing to demonstrate that Miss Logan has strengthened her practice or developed any further insight, the panel determined that she is 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 Miss Logan's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Logan'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 allowing the current order to lapse or imposing a caution order. The panel carefully considered the NMC's Guidance on allowing orders to expire when a nurse or midwife's registration will lapse (REV-3h). It states:

'Taking this option is likely to be appropriate if:

- *the nurse or midwife's registration is only active because of the substantive order being in place,*
- *the nurse or midwife doesn't want to continue practising, and*
- *the public are protected because the panel have made a clear finding that the nurse or midwife's fitness to practise is currently impaired so that this can be drawn to the attention of any future decision-maker if the nurse or midwife attempts to re-join the register.'*

The panel noted that these three requirements are met in Miss Logan's case. At the substantive hearing the NMC accepted that Miss Logan retired in 2020.

The panel noted that Miss Logan is no longer practising as a nurse and that her registration is only being kept active by virtue of the current order, as her registration would have lapsed on 31 January 2021 but for this order. The panel considered that Miss Logan has made it clear that she does not wish to practise as a nurse as she has retired. The panel took note of a telephone record in regard to the original substantive hearing dated 16 June 2022 in which it was recorded that she stated:

'She confirmed that she does NOT wish to participate at the hearing as she has nothing further to add, given that everything she has said & provided to the NMC at the time of investigation. She is now retired and has not revalidated her Registration / PIN.'

The panel understood that Miss Logan has retired from nursing and was no longer engaging with the NMC. The panel also understood that if Miss Logan wished to return to nursing in the future she would be required to reapply to the Register and demonstrate that she was fit to practise.

In light of this, the panel determined that imposing a further order would not be of benefit to any party. Miss Logan has been subject to a suspension order for the last twelve months and has not expressed any desire to continue nursing.

Given all of the above, the panel decided to allow the current order to lapse. This will cause Miss Logan's registration to lapse also. The panel determined that the public would be suitably protected by its finding of current impairment. Should Miss Logan wish to return to the nursing profession in the future, the Registrar will have available the panel's determination. The panel again referred to the NMC's guidance on allowing an order to expire in this regard, which states:

'In looking at any application in the future, and deciding whether the nurse or midwife is capable of safe and effective practice and meets the requirements for health and character, the Registrar would be able to take account of the panel's decision that the nurse or midwife's fitness to practise was still impaired.'

The panel directs the Registrar to consider this determination and any associated evidence if an application to re-join the Register should occur in the future.

At that time, it would be for Miss Logan to demonstrate that she is capable of safe and effective practice, and that she meets the requirements for health and character.

The panel determined that the imposition of a caution order would serve no useful purpose in the circumstances of this case. Further, it determined that a further suspension order would be serve no further purpose and a strike-off order (which the substantive panel

decided was not warranted) would be disproportionate given her unblemished nursing career of over 40 years. Further, the panel determined that the public protection and public interest grounds can be properly addressed by allowing the current order to expire and Miss Logan's registration to expire.

The panel concluded that it was no longer necessary, in either the public interest, or in Miss Logan's own interest to impose any further order.

Accordingly, the panel decided to allow the Order to expire at the end of 31 July 2023 in accordance with Article 30 (1) of the Order. At this point Miss Logan's registration will lapse.

This will be confirmed to Miss Logan in writing.

That concludes this determination.