

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

**Substantive Order Review Meeting
Wednesday, 18 October 2023**

Virtual Meeting

Name of Registrant: Pauline Haynes

NMC PIN 05G1655E

Part(s) of the register: Registered Nurse – Sub Part One
Adult Nursing - October 2005

Relevant Location: Suffolk

Type of case: Caution and Misconduct

Panel members: Bryan Hume (Chair, Lay member)
Kathryn Smith (Registrant member)
Alex Forsyth (Lay member)

Legal Assessor: Justin Gau

Hearings Coordinator: Xenia Menzl

Order being reviewed: Suspension order (12 month)

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely 5 December 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 Ms Haynes's registered email address by secure email on 11 September 2023.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 16 October 2023 and inviting Ms Haynes to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Haynes 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 upon expiry in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order), namely 5 December 2023.

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee pane on 7 November 2022.

The current order is due to expire at the end of 5 December 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 12 October 2018 accepted a caution from Norfolk Constabulary for theft by consumption of morphine sulphate solution and PEPTAC from your employer, contrary to section and 1(1) and 7 of the Theft Act 1968. [Proved by admission]*
- 2) *On 16 September 2018, during a clinical shift consumed morphine sulphate solution. [Proved]*
- 3) *On one or more occasions other than that admitted to in the caution referred to in charge 1), while employed by East Suffolk and North Essex Foundation Trust, obtained, for the use of yourself or another, PEPTAC belonging to your employer, to which you were not entitled. [Proved by admission]*
- 4) *On one or more occasions while employed by East Suffolk and North Essex Foundation Trust, obtained, for the use of yourself or another, paracetamol belonging to your employer, to which you were not entitled. [Proved by admission]*
- 5) *On one or more occasions while employed by East Suffolk and North Essex Foundation Trust, obtained, for the use of yourself or another, anti-depressant medication, belonging to your employer, to which you were not entitled. [Proved]*
- 6) *Your actions at 3), 4) and/or 5) above were dishonest in that you were appropriating for your or another’s use property belonging to another to which you knew you were not entitled. [Proved by admission in respect of 3 and 4, Proved in respect of 5]*

AND in light of the above, your fitness to practise is impaired by reason of your caution in respect of charge 1 and your misconduct in respect of charges 2 to 6.'

The original panel determined the following with regard to impairment:

'Taking into account all of the evidence adduced in this matter, the panel found that patients were put at risk of harm as a result of Ms Haynes' misconduct. The panel was of the view that Ms Haynes' misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Ms Haynes had acted dishonestly, and the panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel next went on to consider the matter of insight. It took into account Ms Haynes' reflective statements in response to the regulatory concerns. The panel found that Ms Haynes demonstrated some remorse and developing insight in her reflective statements. However, the panel also found that Ms Haynes did not fully address all the concerns about her practice. It noted that Ms Haynes did not show sufficient insight into the act of taking anti-depressants from the Trust for the use of another person and the associated dishonesty. The panel considered that Ms Haynes did not demonstrate a full understanding of how her actions impacted negatively on the reputation of the nursing profession or how her failure to [PRIVATE] put patients at a risk of harm.

The panel determined that elements of the misconduct in this case were capable of remediation, although it noted that dishonesty was considerably more difficult to remediate. It carefully considered the evidence before it in determining whether or not Ms Haynes has taken steps to strengthen her practice. The panel acknowledged the positive testimonials provided regarding Ms Haynes' practice as a nurse. However, the panel bore in mind that Ms Haynes has indicated that she no longer wishes to practice as a

nurse and does not appear to have worked in a clinical setting since the referral. The panel determined that the testimonials provided were not recent enough to demonstrate that Ms Haynes has strengthened her current practice. The panel therefore concluded that it has not received any information to suggest that Ms Haynes has taken steps to address the specific concerns raised in this case.

The panel determined that there is a high risk of repetition based on the lack of full insight, and the lack of evidence that Ms Haynes has strengthened her practice. The panel considered that Ms Haynes actions demonstrate a failure to adhere to basic professional obligations. On the basis of all the information before it, the panel decided that there would be a risk to the public if Ms Haynes was allowed to practise without restriction. The panel therefore determined that a finding of current impairment on public protection grounds is necessary.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This 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 concluded that public confidence in the profession would also be undermined if a finding of impairment were not made in this case and therefore also finds Ms Haynes' fitness to practise impaired on the grounds of public interest. The panel considered that a reasonable and informed member of the public aware of all the circumstances of this case would be shocked were a finding not to be made.

Having regard to all of the above, the panel was satisfied that Ms Haynes' fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on Ms Haynes' registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered that the concerns in this case relate to Ms Haynes dishonestly removing medication belonging to the Trust. It took into account the SG, and determined that conditions could not be formulated as the concerns identified do not relate directly to Ms Haynes' clinical practice. In these circumstances, the panel was of the view that there were no practical or workable conditions that could be formulated. It concluded that a conditions of practice order would not adequately 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 SG states that suspension order may be appropriate where some of the following factors are apparent:

*No evidence of harmful deep-seated personality or attitudinal problems;
No evidence of repetition of behaviour since the incident.*

The panel noted that the concerns in this case do not relate to an isolated incident and Ms Haynes' actions were repeated at the relevant time. However, it considered this against Ms Haynes' long standing career as a nurse, where there have been no previous concerns of the kind raised in the referral. The panel also had regard to contextual factors that may have had an impact on Ms Haynes' judgement at the time, [PRIVATE]. Having regard to Ms Haynes' previous history as a nurse and factors impacting her personal circumstances at the time of the incidents, the panel judged that deep-seated personality or attitudinal problems were not identified in this case. The panel therefore found that Ms Haynes' actions were not fundamentally incompatible with remaining on the register. Balancing all of these factors, the panel has concluded that a suspension order would be

the appropriate and the least restrictive sanction required to protect the public and sufficient to meet the public interest.

The panel did go on to give detailed consideration to whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. The panel decided that Ms Haynes' conduct had damaged public confidence but was not so corrosive that a striking-off order was necessary. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Ms Haynes' case to impose a striking-off order.

The panel noted the hardship such an order will inevitably cause Ms Haynes. However, this is outweighed by the public interest in this case.

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.

The panel determined that a suspension order for a period of 12 months, with a review, was appropriate in this case to mark the seriousness of the misconduct.'

Decision and reasons on current impairment

The panel has considered carefully whether Ms Haynes'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 has had regard to all of the documentation before it. It 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 Haynes's fitness to practise remains impaired.

The panel noted that Ms Haynes had not provided the NMC with any further documentation to demonstrate that she has further developed her insight or strengthened her practice. The panel was therefore of the view that there was no material change in circumstances and that there remained a risk of repetition should Ms Haynes be allowed to practise unrestricted.

In light of this the panel determined that Ms Haynes is liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment remains 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 Haynes's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Haynes 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 had regard to guidance published by the NMC entitled: Allowing orders to expire when a nurse or midwife's registration will lapse, updated in April 2018. This guidance states that, in certain circumstances, allowing a suspension or conditions of practice order to expire following a finding of current impairment may actually be the best way to protect the public from concerns about a nurse's practice. Taking this option is likely to be appropriate if:

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

The panel understands that Ms Haynes's registration fee to the NMC expired on 30 October 2020, her name therefore only remains on the register as a result of the current suspension order in place.

The panel noted that Ms Haynes does not appear to have worked in a clinical setting since the referral. The Panel noted the written submissions from the Royal College of Nursing (RCN) which included a declaration from Ms Haynes, dated 24 September 2023, indicating that she no longer intends to practice as a nurse. The panel concluded that there was no indication that Ms Haynes has any desire or intention to resume her practise as a registered nurse. The panel noted that Ms Haynes actions were not incompatible with remaining on the register. The panel took into account of the contextual factors that may have had an impact on Ms Haynes' judgement at the time, namely Ms Haynes' [PRIVATE], her previous history as a nurse and factors impacting her personal circumstances at the time of the incidents. The panel determined that the public interest will be best served by not prolonging proceedings any longer than needed.

The panel considered whether the same outcome could be achieved by striking Ms Haynes's off the register. However, the panel reminded itself of the values and behaviours of the NMC, in particular its value to 'act with kindness and in a way that values people,

their insights, situations and experiences'. It balanced Ms Haynes's unblemished career prior to the incidents with her personal circumstances and the stigma of a striking off order. The panel determined that it would be disproportionate to impose a striking off order in these circumstances.

The panel was satisfied that both public protection and public interest grounds would be upheld if the current order were allowed to lapse upon its expiry. The panel has made a clear finding that Ms Haynes's fitness to practise is currently impaired so that this can be drawn to the attention of any future decision-maker if she attempts to re-join the register.

The current suspension order will therefore be allowed to lapse upon its expiry, namely the end of 5 December 2023 in accordance with Article 30(1) of the Order.

This will be confirmed to Ms Haynes in writing.

That concludes this determination.