

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

**Substantive Order Review Meeting
Monday 18 September 2023**

Virtual Meeting

Name of Registrant: **Samantha Michelle Geary**

NMC PIN: 99B0041E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – February 2002

Relevant Location: Leeds

Type of case: Misconduct

Panel members: Rachel Ellis (Chair, lay member)
Claire Matthews (Registrant member)
Yousuf Rossi (Lay member)

Legal Assessor: Marian Gilmore

Hearings Coordinator: Rene Aktar

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-off order to come into effect at the
end of 3 November 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 Geary's registered email address by secure email on 14 August 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 18 September 2023 and inviting Miss Geary 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 Miss Geary 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 3 November 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 12 months by a Fitness to Practise Committee panel on 1 April 2022. This was reviewed on 23 March 2023 where the suspension order continued for a further six months.

The current order is due to expire at the end of 3 November 2023.

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

The charges which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse, whilst working as a disability assessor:

1. Completed a report form in respect of Patient A by inaccurately recording the following aspects of the Work Capability Assessment you conducted on 8 October 2018:

- a. that Patient A can wash and clean his teeth by using something to lean on despite pain and that they will lean for 5-10 minutes;
- b. that Patient A could sit in the kitchen for 5 minutes;
- c. that Patient A said he will move for 5 minutes at a normal pace;
- d. that Patient A will sit in pain for about an hour;
- e. ...
- f. that Patient A will 'stop every now and again due to pains, but will carry on until he gets there';
- g. that Patient A will be "ok" if appointments are cancelled;
- h. that Patient A will sit and do a jigsaw and/or puzzles for over an hour;
- i. that Patient A can deal with bills, letters, finances and correspondence;
- j. that you observed Patient A sitting for 53 minutes;
- k. that the assessment took 58 minutes;
- l. you did not record that Patient A indicated on some days they cannot get out of bed;
- m. you did not record Patient A's Asperger's syndrome diagnosis;
- n. that Patient A had a personality disorder diagnosis;

2. During the assessment on 8 October 2018, Patient A reported that he had been sectioned under the Mental Health Act and you:

- a. Did not obtain further details from Patient A in relation to this;
- b. Did not document this in the Work Capability Assessment report;

3. Your actions in charge 1 above were dishonest in that you knew the information documented in the report was inaccurate and intended to mislead any reader of the report;

4. *Your actions in charge 2(b) above were dishonest in that you knew information was omitted from the report and intended to mislead any reader of the report;*

5. *During the assessment on 8 October 2018, were presented with documentation indicating a diagnosis of Asperger's syndrome and did not discuss this with Patient A and/or ask any questions about this;*

6. ...

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 considered whether Miss Geary's fitness to practise remains impaired. The panel noted that the original panel found that Miss Geary had sought to justify her actions by placing blame on her employer, rather than reflect on the impact of her actions. The original panel found that she did not demonstrate a full understanding of the significance and magnitude of her conduct.

At this meeting, the panel took into account the lengthy email from Miss Geary dated 9 April 2022, which was sent to the NMC shortly after the substantive hearing. The panel noted that, at that time, Miss Geary continued to apportion blame on others and failed to acknowledge the consequences of her actions. The panel also noted Miss Geary's assertion that the substantive panel had not given weight to her reflection and further training.

However, this panel today had no information from Miss Geary to demonstrate the development of her insight or her remorse for her actions or omissions. The panel had no information to evidence any steps Miss Geary has taken to strengthen her practice since the substantive hearing.

The original panel determined that Miss Geary was liable to repeat matters of the kind found proved. Today's panel has received no new information to demonstrate that the risk of repetition has been reduced. In light of this the panel determined that there remains 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.

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

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

'...

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Geary further time to fully reflect on her previous dishonesty and failings, the impact on the patient involved and her responsibility for the events that led to the substantive hearing. It considered that Miss Geary needs to demonstrate a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that an extension of the current suspension order by six months would be the appropriate and proportionate response. It considered that this would afford Miss Geary adequate time to reflect on her stated intention not to return to the profession and, if her intentions change, further to develop her insight and take steps to strengthen her practice.

The panel did consider imposing a striking off order but determined that it would be disproportionate at this stage, given that Miss Geary does not have the benefit of

representation and may have reflected further after the apparent finality of her stated intention in her email of 9 April 2022 to leave the profession. The panel decided that it would be appropriate to allow her a further opportunity to reengage with the NMC.

The panel determined therefore that an extension of the current suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to extend the current suspension order for a period of six months would provide Miss Geary with an opportunity to engage with the NMC, to provide evidence of any training or state her intentions regarding her nursing career. It considered this to be the most appropriate and proportionate sanction available.

This extension will take effect when the current suspension order would otherwise expire, namely the end of 3 May 2023 in accordance with Article 30(1). Before 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:

- Full and meaningful engagement with the NMC;*
- A reflective piece addressing her failings including the importance of honesty and probity in nursing;*
- Information on her future intentions in relation to her nursing career; and*
- Testimonials from any employment Miss Geary has undertaken.'*

Decision and reasons on current impairment

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

The panel noted that the last reviewing panel found that Miss Geary had insufficient insight. At this meeting the panel took into account that there has not been any further evidence of remediation or insight into her failings, particularly in relation to the dishonesty part of the charge.

The last reviewing panel determined that Miss Geary was liable to repeat matters of the kind found proved.

In its consideration of whether Miss Geary has taken steps to strengthen her practice, the panel took into account that there has not been any evidence of training or remediation since the last reviewing panel and that Miss Geary has not been engaging with the proceedings.

In light of this the panel determined that Miss Geary is liable to repeat matters of the kind found proved and there is therefore a risk of harm to patients. 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 Geary's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Geary 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 Miss Geary'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 Geary'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 conditions of practice on Miss Geary'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 Geary's misconduct and dishonesty.

The panel next considered imposing a further suspension order. The panel noted that Miss Geary had not shown remorse or insight in relation to the dishonesty element of her misconduct. This is despite the last reviewing panel giving Miss Geary a further

opportunity to demonstrate both insight and remorse for her conduct. It also gave her the opportunity to engage with the NMC, provide evidence of any training or state her intentions regarding her nursing career. However, Miss Geary has not engaged with the NMC since the last review and has not provided any further information in respect of these matters since April 2022. The panel was therefore of the view that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel determined that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 3 November 2023 in accordance with Article 30(1).

This decision will be confirmed to Miss Geary in writing.

That concludes this determination.