

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

**Substantive Order Review Meeting
Monday, 4 September 2023**

Virtual Meeting

Name of Registrant: Miss Angela Gill

NMC PIN 71A1672E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – May 1974

Relevant Location: Middlesbrough

Type of case: Misconduct

Panel members: Konrad Chrzanowski (Chair, Lay member)
Jodie Lynne Jones (Registrant member)
Judith Webb (Lay member)

Legal Assessor: Graeme Henderson

Hearings Coordinator: Xenia Menzl

Order being reviewed: Suspension order (12 Months)

Fitness to practise: Impaired

Outcome: Order to lapse upon expiry in accordance with Article 30 (1), namely 13 October 2023

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Ms Gill's registered email address on 27 July 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, that the review meeting would be held no sooner than the 29 August 2023 and inviting Ms Gill to provide any written evidence seven days before this date.

In the light of all of the information available, the panel was satisfied that Ms Gill 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 that Ms Gill's practice is still impaired but determined not to renew or amend the existing order. The existing order will expire at the end of 13 October 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 15 September 2022.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

'That you a registered nurse, while working at Astune Rise Care Home (the "Home"):

- 1. On or around 17 July 2020 took approximately 7 vials of midazolam from the Home without permission or clinical justification.*

2. *Your actions at charge 1 above were dishonest in that you knew you were not entitled to take the midazolam vials but did so anyway.*

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:

'Regarding insight, the panel considered that Ms Gill has not provided the NMC with any information or evidence that the regulatory concerns against her have been remedied. The panel took into account that Ms Gill has made full admissions to the charges and did so as soon as she was asked about by the Home Manager and at the local investigation. The panel was however of the view that there was no information before it that Ms Gill has demonstrated any further insight or remediated the regulatory concerns against her. The panel noted that it is difficult to remediate dishonesty.

The panel noted that Ms Gill had informed the NMC in email correspondence that she had taken the Midazolam due to stressful circumstances in her personal life and that she had only taken the drugs as they were otherwise for disposal. The panel was satisfied that the misconduct in this case is capable of being addressed. The panel however considered that Ms Gill had not provided any evidence of reflection on how she would act differently if she were to find herself in a similar situation in the future.

The panel noted that Ms Gill has informed the NMC that she has not worked since July 2021 and has therefore not had the opportunity to demonstrate that she has remediated the regulatory concerns.

However, the panel is of the view that there is a risk of repetition based on the lack of insight and remediation. The panel therefore 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; 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 determined that a finding of impairment on public interest grounds is required. It considered that a member of the public would be concerned to learn of the regulatory concerns against Ms Gill.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Ms Gill's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Ms Gill's 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 Gill'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 is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case, in particular to dishonesty. The misconduct identified in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on Ms Gill's registration would not adequately address the seriousness of this case and would not protect the public or 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:

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- ...*
- ...*
- ...*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with Ms Gill remaining on the register.

It did go on to consider 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. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Ms Gill's case to impose a striking-off order.

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

The panel noted the hardship such an order will inevitably cause Ms Gill. 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 was appropriate in this case to mark the seriousness of the misconduct and will provide Ms Gill with an opportunity to reflect, develop her insight and consider her future.'

Decision and reasons on current impairment

The panel has considered carefully whether Ms Gill'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.

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 Ms Gill's fitness to practise remains impaired.

The panel noted that Ms Gill 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 Gill be allowed to practise unrestricted.

In light of this the panel determined that Ms Gill 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 Gill's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Gill'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 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 Gill's registration fee to the NMC expired on 30 April 2021, her name therefore only remains on the register as a result of the current conditions of practice order in place.

The panel noted that Ms Gill has informed the NMC that she has not been working as a registered nurse since July 2021. The panel concluded that there was no indication that

Ms Gill has any desire or intention to resume her practise as a registered nurse. The panel noted that this was one single incident of misconduct which was not incompatible with remaining on the register. The panel took into account of the mitigating factors in this case, which included her early admissions at local level and with the NMC investigation as well as her personal circumstances at the time of the incident. 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 Gill'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 Gill's longstanding and unblemished career of nearly 50 years 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 Gill'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 13 October 2023 in accordance with Article 30(1) of the Order.

This will be confirmed to Ms Gill in writing.

That concludes this determination.