

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

**Substantive Order Review Hearing
Wednesday, 20 September 2023**

Virtual Hearing

Name of Registrant: Cecelia Marilyn Woods

NMC PIN 74D1205E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing (Level 1) – October 1976
Adult Nursing (Level 2) – December 1992

Relevant Location: Hampshire

Type of case: Misconduct

Panel members: Bryan Hume (Chair, lay member)
Jim Blair (Registrant member)
Ashwinder Gill (Lay member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Catherine Blake

Nursing and Midwifery Council: Represented by Harriet Dixon, Case Presenter

Mrs Woods: Not present and not represented at the hearing.

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of 31 October 2023 in accordance with Article 30 (1).**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Woods was not in attendance and that the Notice of Hearing had been sent to Mrs Woods' registered email address by secure email on 16 August 2023.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Woods' representative, David Woods, on 16 August 2023.

Ms Dixon, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Woods' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Woods' has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Woods

The panel next considered whether it should proceed in the absence of Mrs Woods. The panel had regard to Rule 21 and heard the submissions of Ms Dixon who invited the panel to continue in the absence of Mrs Woods. She referred to correspondence sent to the NMC on 20 September 2023 by Mrs Woods' representative, which states:

'...neither myself or Cecelia Woods will be attending this hearing or any subsequent hearing should there be one. The reason is that Cecelia Woods is now retired and as a result of the sanction, unable to gain employment as either a Nurse or a Carer.'

Ms Dixon submitted that there was no indication that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Woods. In reaching this decision, the panel has considered the submissions of Ms Dixon, the representations made on Mrs Woods' behalf, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted the email received from Mrs Woods' representative informing the NMC that she has received the Notice of Hearing and that neither she nor her representative would be attending this hearing or any future events.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Woods.

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 31 October 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (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 September 2022.

The current order is due to expire at the end of 31 October 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 being a registered nurse:

1. *On the 7th September 2020 administered 2.5 mls oramorph to Resident A, and:*
 - i. *did so in the absence of a second checker **[PROVEN BY ADMISSION]***
 - ii. *did not record the administration in the controlled drug [“CD ”] chart **[PROVEN BY ADMISSION]***
 - iii. *did not check the balance in the CD stock after administration. **[PROVEN BY ADMISSION]***

2. *On the nightshift of 18th and 19th January 2021:*
 - i. *Failed to complete the process of selecting and/or administering a controlled drug to Resident C in that you did so without a second checker confirming selection and/or formally witnessing administration **[PROVEN BY ADMISSION]***
 - ii. *Failed to examine the CD book to identify the correct patient and/or, the correct drug and/or correct dosage. **[PROVEN BY ADMISSION]***
 - iii. *Administered medication prescribed for Resident B to Resident C, namely 10 mg of Temazepam instead of 7.5 mg of Zopiclone. **[PROVEN BY ADMISSION]***

3. *Inaccurately recorded in the CD drug chart that the administration described at 2 (iii) had been effected at 22.00 hours on the 18th January 2021 when it had in fact been administered at 00.30 hours on the 19th January. **[NOT PROVEN]***

4. *Inaccurately recorded on Resident C’s MAR chart for the 18th January 2021 “night time ” that Zopiclone 7.5mg was given to the Resident. **[PROVEN BY ADMISSION]***

5. *After you had administered the medication described at 2 (iii) you sought to exert your influence and/or instruct Colleague 1 to sign the chart to purport to show that she had formally witnessed the selection and/or administration of the drug. **[PROVEN]***

6. *Your actions at 3 were dishonest in that you knew that the administration had been made at 00.30 on the 19th and not at 22.00 hours on the 18th. **[NOT PROVEN]***
7. *Your actions at 5 were dishonest in that you knew that Colleague 1 had not formally witnessed the selection and/or administration of the drug. **[PROVEN]***
8. *After the administration described above at 2, you failed to check the balance in the CD stock with a second checker. **[PROVEN BY ADMISSION]***

In the light of the above, your fitness to practise is impaired by virtue 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, your 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 and to maintain professional boundaries. 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) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that patients were put at risk and could have suffered serious harm as a result of your misconduct. Your misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel considered your undated fitness to practise reflective account form. Although you noted the staffing issues and lack of support you received at the time of the incidents, you failed to address the seriousness of the

matter and the impact your actions had on patients, as well as public confidence in the nursing profession and the reputation of the NMC as a regulator.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel noted that following the first incident, you underwent additional training and had regard to the Boots Care Learning training certificate you completed dated 9 November 2020. However, the panel was of the opinion that in the absence of any information of the content of the course, it could not be satisfied that it covered the areas of concern found in the proven charges.

The panel is of the view that there is a risk of repetition as your conduct in the proven charges was repeated on two occasions. There was also no information before the panel to demonstrate that you have sought to improve your nursing practice since the incidents in a similar work environment. The panel also noted that you have provided no third party written testimonies to attest to your character and practice, or to demonstrate that such actions have not been repeated since the incidents. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection as there were unsatisfied that the risk of serious harm to future patients had been mitigated against in any way.

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 therefore determined that a finding of impairment on public interest grounds is required given the serious nature of the proven charges and the finding of dishonesty.

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 your fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that Mrs Woods' registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Having found Mrs Woods 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 SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Conduct was repeated in short span of time, despite receiving additional training after the first incident;*
- Conduct put patients at risk of suffering harm;*
- Involving a junior colleague in the conduct;*
- failing to demonstrate fundamental aspects of nursing practice;*
- vulnerable patients affected; and*
- Lack of insight into failings;*

The panel also took into account the following mitigating features:

- *Early admission to some of the charges;*
- *Chaotic and busy work environment;*
- *Lack of support within the workplace as the only registered nurse on shift;
and*
- *Demonstration of remorse for conduct*

The panel took into account that Mrs Woods has a 40 year unblemished nursing record. The panel are of the opinion that Mrs Woods is a genuinely caring individual dedicated to the profession.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the risks identified. 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 and the dishonesty aspect of the case, and the public protection issues identified, an order that does not restrict Mrs Woods' 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 Mrs Woods' 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 placing conditions of practice on Mrs Woods' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*

- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining; and*
- *No evidence of general incompetence;*

The panel considered the possibility of imposing conditions to manage the issues around Mrs Woods' medication administration. However, it took into account the fact that Mrs Woods' conduct has already been repeated on two occasions, despite her receiving additional training. The panel also considered the lack of insight and steps Mrs Woods has taken to demonstrate that the risks identified have been mitigated by strengthening her practice. Furthermore, it considered that there were no conditions that could effectively manage the dishonesty aspect of Mrs Woods' conduct. The panel therefore is of the view that, given the seriousness of the case, there are no practical or workable conditions that could be formulated.

Furthermore, the panel concluded that the placing of conditions on Mrs Woods' registration would not adequately protect the public, nor would it be in 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 considered the nature and seriousness of the conduct, which was repeated within a short span of time and involved a junior colleague. The panel took into account the work environmental issues identified, and that there is no evidence of repetition of Mrs Woods' conduct since the incidents. However, the panel were concerned about the lack of insight and evidence from Mrs Woods to demonstrate that she has taken steps to improve her nursing practice. Given the gravity of the misconduct and the dishonesty aspect involved, the panel considered that there

was a need to restrict Mrs Woods' practice to ensure public safety and maintain public confidence in the profession.

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 Mrs Woods' 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 Mrs Woods. 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.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Woods' 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, and correspondence received from Mrs Woods and her representative. It has taken account of the submissions made by Ms Dixon on behalf of the NMC.

Ms Dixon briefly summarised the background of the case.

Ms Dixon submitted that Mrs Woods' fitness to practice remains impaired.

Ms Dixon submitted that, since the substantive hearing, Mrs Woods had failed to provide a reflective piece as requested by the original panel. She submitted that Mrs Woods has not engaged with the NMC other than to fill out the contact details form, and to send an email on the morning of today's hearing, 20 September 2023. Of that email, Ms Dixon submitted that it demonstrated a lack of insight.

Ms Dixon noted the finding of the original panel that Mrs Woods' reflective account provided at the substantive hearing failed to address the seriousness of the matter and the impact of Mrs Woods' actions on patients as well as public confidence in the nursing profession.

Ms Dixon submitted that, given Mrs Woods' lack of engagement with the NMC and that her email of 20 September 2023 seems to diminish the seriousness of the findings against her, there has been no material change in her circumstances.

Ms Dixon noted the email from Mrs Woods' representative, which indicates Mrs Woods has undertaken further training including a course in medication administration. The certificates are not easily read, but Ms Dixon did not dispute that the courses were undertaken. She submitted that, read in the context of Mrs Woods' email of 20 September 2023, the further training was not sufficient to remedy her impairment.

Ms Dixon noted that Mrs Woods' failure to follow the correct procedure when administering controlled drugs put patients at risk. She submitted that the risk of repetition remains high given Mrs Woods' lack of engagement.

Regarding the email received from Mrs Woods' representative and the indication that Mrs Woods had retired, Ms Dixon directed the panel's attention to the decision of the Court of Appeal in *General Optical Council v Clarke* [2018] EWCA Civ 1463. In that case, the court determined that retirement does not assist in relation to the question of whether someone's fitness to practice is impaired. Ms Dixon submitted that fitness to practice denotes that a person is appropriate, competent and qualified to fulfil a role, and any decision must rest on those factors and not whether the registrant intends to return to practice.

Ms Dixon then addressed the panel on sanction. She submitted that a striking off order is necessary and proportionate given the seriousness of the allegations found proved, and the lack of insight by Mrs Woods. She noted that the email from Mrs Woods' representative indicated that Mrs Woods would not return to practice, however Ms Dixon noted that this did not come directly from Mrs Woods herself and that she may change her mind at a later date. For this reason, Ms Dixon submitted that allowing the current order to lapse may not adequately protect the public and that a striking off order was therefore necessary.

The panel had regard to the email received from Mrs Woods and Mrs Woods' representative.

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 Mrs Woods' fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Woods had insufficient insight. At this hearing the panel determined that Mrs Woods continues to show a lack of insight or willingness to take responsibility for her actions in light of the allegations being found proved.

In its consideration of whether Mrs Woods has taken steps to strengthen her practice, the panel took into account the certificates submitted by Mrs Woods' representative. However, it concluded that these were not enough to demonstrate that Mrs Woods had adequately strengthened her practice to address the risks identified. The panel also noted that Mrs Woods has failed to submit a reflective piece as requested by the original panel.

The original panel determined that Mrs Woods was liable to repeat matters of the kind found proved. Today's panel has heard no new information to suggest that the risk of repetition has changed. In light of this, this panel determined that Mrs Woods 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 Mrs Woods' fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Woods' 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 Mrs Woods' 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 Mrs Woods' 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 Mrs Woods' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, 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 Mrs Woods' misconduct.

The panel next considered imposing a further suspension order. The panel noted that in the email dated 20 September 2023, Mrs Woods did not show remorse for her misconduct. Further, Mrs Woods has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Mrs Woods 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 Mrs Woods 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.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 31 October 2023 in accordance with Article 30(1).

This decision will be confirmed to Mrs Woods in writing.

That concludes this determination.