

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

**Substantive Order Review Hearing
Tuesday, 20 August 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Wendy Carol Bramley

NMC PIN: 79J3203E

Part(s) of the register: Nurses part of the register Sub part 2
RN2: Adult nurse, level 2 (20 April 1982)

Nurses part of the register Sub part 1
RN8: Children's nurse, level 1 (13 September 1998)

Relevant Location: Hull

Type of case: Misconduct/Lack of competence

Panel members: Peter Wrench (Chair, Lay member)
Jane Jones (Registrant member)
Tricia Breslin (Lay member)

Legal Assessor: Peter Jennings

Hearings Coordinator: Amira Ahmed

Nursing and Midwifery Council: Represented by Samprada Mukhia, Case Presenter

Mrs Bramley: Not present and not represented at this hearing

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 22 August 2024 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 Bramley was not in attendance and that the Notice of Hearing had been sent to Mrs Bramley's registered email address by secure email on 12 July 2024 and registered address by recorded delivery and first class post on 18 July 2024.

Ms Mukhia, 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 concerning requirements of service.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and including instructions on how to join virtually and, amongst other things, information about Mrs Bramley's 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 Bramley 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 Bramley

The panel next considered whether it should proceed in the absence of Mrs Bramley. The panel had regard to Rule 21 and heard the submissions of Ms Mukhia who invited the panel to continue in the absence of Mrs Bramley. She submitted that Mrs Bramley had voluntarily absented herself.

Ms Mukhia submitted that Mrs Bramley has decided that she would not be attending this hearing and confirmed this in correspondence with the NMC. In an email dated 19 August 2024, Mrs Bramley stated:

'No I will not be able to attend I'm working . There is no new information. I wish this matter to be resolved , not go on for a 6th year.'

Ms Mukhia submitted that there was no reason to believe that an adjournment would secure Ms Bramley's attendance on some future occasion.

The panel accepted the advice of the legal assessor concerning the principles which should inform its consideration on whether to proceed in Mrs Bramley's absence.

The panel has decided to proceed in the absence of Mrs Bramley. In reaching this decision, the panel has considered the submissions of Ms Mukhia and the advice of the legal assessor. It has had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Bramley;
- Mrs Bramley has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a legal requirement that the current order be reviewed before its expiry on 22 August 2024.

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

Decision and reasons on review of the substantive order

The panel decided to impose a suspension order for a period of 6 months.

This order will come into effect at the end of 22 August 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 22 July 2022. This was reviewed on 5 July 2023 and a further conditions of practice order was imposed for a period of 12 months.

The current order is due to expire at the end of 22 August 2024.

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 or around 19 July 2017 attended Patient Z's home outside of working hours. (PROVED BY ADMISSION)*

2) *On or around 20 July 2017;*

a) Attended Patient Z's home outside of working hours. (PROVED BY ADMISSION)

b) Did not call for emergency assistance/ an ambulance for Patient Z. (PROVED BY ADMISSION)

c) Transported Patient Z to the hospital/ Accident & Emergency in your personal motor vehicle. (PROVED BY ADMISSION)

3) *On or around 19/20 July 2017 failed to refer Patient Z to safeguarding in a timely manner. (PROVED BY ADMISSION)*

4) *On or around 5 February 2018;*

a) Did not ensure that a safety needle was correctly disposed of in the sharps bin. (PROVED BY ADMISSION)

b) Did not ensure that a syringe was correctly disposed of in the sharps bin. **(PROVED)**

c) Did not ensure that a patient's clinic pack was correctly disposed of. **(PROVED BY ADMISSION)**

5) On or around 14 April 2018 prepared/ drew up an incorrect dose of medication into a syringe for administration. **(PROVED BY ADMISSION)**

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

That you, a registered nurse, whilst employed by City Health Care Partnership (CHCP), failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse, in that you:

6) Did not record details of your visit to Patient Z's home on 19 July 2017 until 26 July 2017. **(PROVED BY ADMISSION)**

7) Did not record details of your visit to Patient Z's home on 20 July 2017 until 26 July 2017. **(PROVED BY ADMISSION)**

8) On or around 1 December 2017 did not make contemporaneous records regarding the insertion of a Nasogastric Tube. **(PROVED BY ADMISSION)**

9) On or around 19 December 2017 did not make contemporaneous records regarding the application of an absorbent wound dressing. **(PROVED BY ADMISSION)**

10) On or around 22 March 2018

a) Did not make contemporaneous records until 5 days after visiting a patient. **(PROVED BY ADMISSION)**

b) On one or more occasion did not make contemporaneous records of a within 24 hours. **(PROVED BY ADMISSION)**

11) *On or around 31 May 2019, failed to ensure that you had completed 17 allocated Looked After Child reports/reviews. (PROVED BY ADMISSION)*

12) *Did not complete/satisfy the objectives of an action plan formally implemented on or around December 2017. (PROVED BY ADMISSION)*

13) *Did not complete/satisfy the objective of an action plan formally implemented in or around 11 July 2018. (PROVED BY ADMISSION)*

And in light of the above your fitness practise is impaired by reasons of your lack of competence.'

The original panel found that Mrs Bramley's actions in charges 2b, 2c, 4 and 5 alone constituted misconduct, and those in charges 6 to 13 showed a lack of competence.

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

'The panel considered whether Mrs Bramley's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Bramley had limited insight. It had noted that she admitted almost all of the charges and during the internal investigations she agreed that her practise fell short of the standards expected of a registered nurse.

At this meeting the panel noted that it had no information before it to demonstrate that there was any material change in circumstances since the last hearing. The panel did not have any information before it to show that Mrs Bramley has reflected on her misconduct and lack of competence, nor any demonstration of insight or strengthening of practice.

The panel did not have any evidence of Mrs Bramley's compliance with the conditions of practice order. In fact, the panel noted the email correspondence sent to Mrs Bramley from the NMC, reminding her of the original panel's indications of what future panel may be assisted by, in order for Mrs Bramley to demonstrate her safe practice.

The panel bore in mind Mrs Bramley's email dated 19 March 2023 in which she writes:

'I want to know when this will be over this is the 4th year, it is unacceptable. It said originally 18 months. I'm fed up of this hanging over me, nothing has happened'

The panel also noted that Mrs Bramley had indicated in an email dated 21 March 2023, that she is working for Siruis Homecare, Faraday House as a Senior Health Care Assistant. She had stated that she was responsible for client personal care, administering medication, record keeping and that she is responsible for teaching new carers the duties required.

The panel therefore determined that it had no information before it to demonstrate that there was any material change in circumstances since the last hearing. In the absence of any information about her current practice or any evidence of insight or strengthening of practice and compliance with the conditions of practice order, Mrs Bramley's practice remains impaired 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 Bramley's fitness to practise remains impaired.'

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

'Having found Mrs Bramley'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 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 protection or 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 Bramley'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 Mrs Bramley's failings were 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 protection and the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on Mrs Bramley's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel noted that Mrs Bramley had not provided it with any detail of compliance with the current order but there has been some limited engagement with the NMC.

The panel was therefore of the view that a further conditions of practice order would provide Mrs Bramley an opportunity to demonstrate her insight and strengthening of practice or to make clear to a future panel what her intentions are regarding her nursing career. The panel was of the view that a conditions of practice order is

sufficient to protect patients and the wider public interest. In this case, there are conditions which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this time and would not be a reasonable response in the circumstances of Mrs Bramley's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 22 August 2023. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. *You must ensure that you are supervised by your line manager.
Your supervision must consist of:
 - a) *Meetings to discuss and review your
 - i. *record keeping*
 - ii. *medication administration practice**
 - b) *These meetings must be held weekly for the first three months of your employment as a nurse, before transitioning to be held every month, if by then there are no areas of concern highlighted regarding recording keeping and medication administration.**

2. *You must send your case officer evidence that you have successfully completed up to date training in relation to both:
 - a) *Record keeping*
 - b) *Medication administration**

3. *You must work with your line manager to create a personal development plan (PDP). Your PDP must address the concerns about your*
 - *Record keeping;*
 - *Medication administration*

You must:

- a. *Send your case officer a copy of your PDP three months after gaining relevant employment*
 - b. *You must provide the NMC with a reflective piece on how you are addressing the concerns of record keeping and medication administration in your day to day role before the next hearing.*
 - c. *Meet with your line manager at least every three months to discuss your progress towards achieving the aims set out in your PDP.*
 - d. *Send your case officer a report from your line manager every three months. This report must show your progress towards achieving the aims set out in your PDP*
4. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
5. *You must keep the NMC informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*

- b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
6. *You must immediately give a copy of these conditions to:*
- a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*
7. *You must tell your case officer, within seven days of your becoming aware of:*
- a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*
8. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
- a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

The period of this order is for 12 months. The panel determined that this was a sufficient period of time for Mrs Bramley to demonstrate compliance with the conditions or to decide how she wishes to progress with her nursing career.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 22 August 2023, in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review to see to what extent Mrs Bramley has complied with the order. At the review the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Bramley's engagement with the NMC*
- *Any indication as to Mrs Bramley's intention of future plans regarding her nursing practice*
- *A reflective statement which addresses*
 - *Mrs Bramley's insight as to what went wrong and how she would deal with similar circumstances in the future;*
 - *How Mrs Bramley's failings impacted on patient safety and the reputation of the profession;*
 - *What steps Mrs Bramley has taken to improve her practice in the following areas, in her current role:*
 - *record keeping*
 - *medication administration*
 - *patient safety*
- *Testimonials from Mrs Bramley's current employer that focus on her:*
 - *Current record keeping practices;*
 - *Current medication administration practices*
- *Evidence of relevant training'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Bramley'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. The NMC guidance DMA-1 sets out the question that will help decide whether a professional's fitness to practise is impaired which is:

'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

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 email correspondence from Mrs Bramley. It has taken account of the submissions made by Ms Mukhia on behalf of the NMC. She submitted that the last reviewing panel gave recommendations which Mrs Bramley could follow and would assist a future reviewing panel but she has not followed this advice and has not engaged in the process.

Ms Mukhia referred the panel to the email dated 9 August 2024 from Mrs Bramley in response to the NMC emailing her to ask whether she would be attending and would be providing any new information:

'I will not be employed under restricted practice. I want this over; I don't want it any later. I've had enough of waiting. You just don't understand, how I feel after 33 years nursing being destroyed in my mind. How would you feel! Your probably not a nurse (that's an assumption). You seem to be assuming how I feel, you'll never understand. I'm going to work that's it'.

Ms Mukhia submitted that it is clear that Mrs Bramley has not engaged with the current conditions of practice order. She referred the panel to the aggravating features identified by the original panel. She submitted that Mrs Bramley provided no documents, no

explanation on why she would not work in a clinical role and no explanation of her reluctance.

Ms Mukhia submitted that Mrs Bramley has also not shown any evidence of insight, remorse or strengthening of practice and therefore no material change in circumstance. She submitted that Mrs Bramley's fitness to practice remains impaired on both public protection and public interest grounds.

The panel heard and accepted the advice of the legal assessor concerning the matters it should take into account in deciding impairment.

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 noted that the last reviewing panel found that Mrs Bramley had limited insight and her misconduct and lack of competence put patients at risk of harm. This panel noted that Mrs Bramley has not engaged with these proceedings other than to state that she does not want her practice to be restricted. The panel noted the email dated 09 August 2024 in which Mrs Bramley states:

'I will not be employed under restricted practice. I want this over...'

It also noted the email from Mrs Bramley on 19 July 2024 which she stated:

'I am responding and confirming that I have received and read the report. As you are aware I have never been happy with this result. I was told it would be over in 18 months. I admitted to everything in the first decision. Nothing has changed, I have nothing to add. My career in nursing of 36 years ended the day I got the letter. You have sent the same report as the last 4 years , nothing has changed or investigated by the NMC in that time . COVID is no excuse at this time . No new information has been collected by NMC . I feel humiliated and I want it completing, 5 years is unnecessary and totally unacceptable amount of time .'

The panel has had no evidence before it today of any insight, remorse or strengthening of practice by Mrs Bramley. It determined that there has been no material change of circumstances since the last review hearing and that a risk of repetition remains. 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 both to protect patients and also to meet 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 Bramley's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Bramley'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 noted that Ms Mukhia submitted that Mrs Bramley's actions caused a risk of harm to patients and were serious. She submitted that a panel should make a striking off order in respect of Mrs Bramley's misconduct. In relation to lack of competence, she pointed out that it had not been a full two years since Mrs Bramley has been subject to a substantive order and therefore a striking off order in relation to this is not available today. Ms Mukhia submitted that a suspension order is the appropriate order in this case although it is a matter for the panel which sanction, if any they decide to impose.

The panel accepted the advice of the legal assessor concerning its powers and the matters it should take into account in deciding on sanction.

The panel did consider imposing no further sanction and allowing the order to lapse upon expiry with a finding of impairment on Mrs Bramley's record. This would mean that Mrs Bramley would no longer be on the register if she was to seek to return to the register, she would need to satisfy the Registrar that she was fit to practice. However, the panel had conflicting information from Mrs Bramley's on her intention to practise as a registered nurse. In her email dated 19 July 2024 Mrs Bramley said *'that her career in nursing of 36 years ended the day she got the letter'* and in her email on 9 August 2024 she said *'I will not be employed under restricted practice'*. However, in another email on 9 August 2024 Mrs Bramley stated, *'I would like to return to practice'*.

The panel therefore determined that it would be unsatisfactory to allow the order to lapse upon expiry.

It then considered the imposition of a caution order but determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Bramley'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 regarded the failings which were found to be misconduct to be relatively minor, but considered that Mrs Bramley's lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. As a result the panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on Mrs Bramley's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel noted that Mrs Bramley has not engaged with the conditions of practice order since its imposition on 22 July 2022. Mrs Bramley's emails to the NMC suggest strongly that she is unwilling to practice in accordance with any conditions which might be imposed upon her practice. It noted the emails from Mrs Bramley on 9 August 2024 in which she states:

'...I will not be employed under restricted practice.'

'I'm not applying for nursing positions; I'm not being supervised as a band 5 that would be total humiliation...'

On this basis, the panel concluded, while a conditions of practice order is in principle workable, it is no longer the appropriate order in the present circumstances.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months. This will allow Mrs Bramley to decide whether she wishes to try to return to nursing. If she does, she will have one further opportunity to fully engage with the NMC, develop and demonstrate her insight, and take steps to remediate and strengthen her practice. If she does not, she will be able to make her intentions clear to the NMC.

As Mrs Bramley has not been subject to a substantive order for two years, a striking-off order is not yet available in respect of her lack of competence. The panel determined that given that Mrs Bramley's misconduct was not fundamentally incompatible with remaining on the NMC register, a striking-off order in relation to misconduct would not be appropriate.

The panel therefore makes a suspension order for a period of six months. It is satisfied that this order, for this period, is the appropriate and proportionate sanction.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely at the end of 22 August 2024 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 extend the order or make a different order, it may revoke the order or reduce its length, or it may replace the order with another order for the duration of its current term. It may also make no order at all with the result that the order lapses upon expiry and Mrs Bramley would then cease to be registered.

The panel stressed that any future reviewing panel will need clarity on Mrs Bramley's future intentions regarding returning to nursing. If Mrs Bramley decided she wants to try to return to nursing this panel would emphasise the importance of her full engagement with the NMC, including her participation in the next review hearing. For Mrs Bramley to be able to speak to the panel is likely to be of assistance both to her self and to the panel.

In these circumstances any future panel reviewing this case would be assisted by:

- A reflective statement which addresses
 - Mrs Bramley's insight as to what went wrong and how she would deal with similar circumstances in the future;
 - How Mrs Bramley's failings impacted on patient safety and the reputation of the profession;
 - What steps Mrs Bramley has taken to improve her practice in the following areas, in her current role:
 - record keeping
 - medication administration
 - patient safety
- Testimonials from Mrs Bramley's current employer that focus on her:
 - Current record keeping practices;
 - Current medication administration practices
- Evidence of relevant training

This will be confirmed to Mrs Bramley in writing.

That concludes this determination.