

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

**Substantive Order Review Hearing  
Friday, 13 December 2024**

Virtual Hearing

**Name of Registrant:** Angela Coley

**NMC PIN:** 06Y0083E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Mental Health Nursing – 26 September 2006

**Relevant Location:** Birmingham

**Type of case:** Misconduct

**Panel members:** Mark Gower (Chair, Lay Member)  
Anne Considine (Registrant Member)  
Kiran Musgrave (Lay Member)

**Legal Assessor:** Andrew Granville-Stafford

**Hearings Coordinator:** Bartek Cichowlas

**Nursing and Midwifery Council:** Represented by Nawazish Choudhury, Case Presenter

**Mrs Coley:** Not present and unrepresented at the hearing

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

**Fitness to practise:** Impaired

**Outcome:** **Order to lapse upon expiry under Article 30(1),  
namely at the end of 22 January 2025**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Ms Coley was not in attendance and that the Notice of Hearing had been sent to Ms Coley's registered email address by secure email on 1 November 2024.

Mr Choudhury, 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, dates and venue of the hearing and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Ms Coley'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 Ms Coley has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Decision and reasons on proceeding in the absence of Ms Coley**

The panel next considered whether it should proceed in the absence of Ms Coley. The panel had regard to Rule 21 and heard the submissions of Mr Choudhury who invited the panel to continue in the absence of Ms Coley.

Mr Choudhry submitted that Ms Coley was fully aware of the hearing, pointing to the communication via phone on the 21 November 2024 confirming that she would attend. However there had been no response to subsequent emails sent on the 12 and 13

December 2024 and phone calls made on 13 December 2024, asking her to confirm her attendance. Mr Choudhury submitted that the order expires on the 22 January 2025, and it is a mandatory review. Even if the case is adjourned, there is no evidence to suggest Ms Coley would attend a hearing at a later date. He therefore submitted that Ms Coley had voluntarily absented herself.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Ms Coley. In reaching this decision, the panel has considered the submissions of Mr Choudhury, the representations from Ms Coley via prior communications, 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 that:

- No application for an adjournment has been made by Ms Coley;
- Ms Coley has previously engaged with the NMC and, although she has previously responded with confirmation of attendance, has not provided any information for her absence
- There is no reason to suppose that adjourning would secure her attendance at some future date or that this would serve any useful purpose
- There is a strong public interest in the expeditious review of the case.

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

### **Decision and reasons on review of the substantive order**

The panel decided to allow the order to lapse with a finding of impairment.

This order will come into effect at the end of 22 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fifth review of a substantive conditions of practice order originally imposed for a period of 24 months by a Fitness to Practise Committee panel on 21 June 2019. The

conditions of practice order was reviewed and extended for 12 months on 15 June 2021. The conditions of practice order was reviewed again on 9 June 2022, where a conditions of practice order was imposed for a period of 12 months. The conditions of practice order was reviewed on 12 June 2023 when a condition of practice order was imposed for a period of six months. The order was last reviewed on 19 December 2023, where it was extended for a further period of 12 months.

The current order is due to expire at the end of 22 January 2025.

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, while employed at Cambian Cedars Mental Health Rehabilitation Service;*

1. *On 1 February 2016 administered one or more medications to service users at Cambian Cedars but failed to sign the corresponding medication administration cards to record that medication had been given*

***Proved by admission***

2. *On 3 April 2016, in relation to Patient A, you;*

- a. *Attempted to cut a 500mg sodium valproate tablet, with the intention of administering 500mg and 250mg of sodium valproate which would have added up to a dose of 750mg (an overdose), when in fact the required dose was 700mg,*

***Proved***

- b. *Administered an incorrect dose of 600mg sodium valproate, when the required dose was 700mg,*

***Proved by admission***

c. ...

d. *Did not contact the doctor on-call for advice, as you were directed to after your medication error described in 2.b above*

***Proved by admission***

3. *On 3 April 2016 in relation to Patient B you ;*

a. *recorded in the patient's medication card that they had received insulin when you had information to indicate he may not have taken the insulin you had given him,*

***Proved***

b. ...

c. *you failed to act on the direction of the on-call doctor to immediately refer Patient B to hospital*

***Proved***

4. *On 9 April 2016 and/or 15 May 2016 failed an Administration of Medication Competency Assessment*

***Proved in respect of the assessment dated 9 April 2016***

***No case to answer in respect of the assessment dated 15 May 2016***

*And in light of the above your fitness to practise is impaired by reason of your misconduct in respect of charges 1 to 3 and by reason of your lack of competence in respect of charge 4.'*

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

*'The panel considered whether your fitness to practise remains impaired.*

*The panel noted that the last reviewing panel found that you had developing insight. At this hearing you provided the panel with a reflective piece. The panel determined*

*that whilst this was helpful generally, it was lacking in substance and did not directly address the charges in order to demonstrate you can practise safely.*

*In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the additional training you have undertaken, but determined that there is little evidence to show how you have implemented it into your practice.*

*The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has not received any new information to suggest that you have sufficiently remediated or strengthened your practice. In light of this, this panel determined that you are still 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 your fitness to practise remains impaired.'*

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

*'The panel next considered whether imposing a further conditions of practice order on your 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 accepted that you have been unable to comply with the conditions of practice due to your current employment status but that you are engaging with the NMC and are willing to comply with any conditions imposed.*

*The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. In this case, there are conditions that could be formulated 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 wholly disproportionate and would not be a reasonable response in the current circumstances of your case. The panel decided that the public will be adequately protected and public confidence in the nursing profession and the NMC as regulator can be maintained by the imposition of a conditions of practice rather than a suspension order.*

*However, the panel would say that, as you have been subject to a conditions of practice order for some four years now, a future reviewing panel might take a different view and decide to impose a more severe sanction upon you.'*

## **Decision and reasons on current impairment**

The panel considered carefully whether Ms Coley'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 had regard to all of the documentation before it, including the NMC bundle, and the telephone communications between the NMC and Ms Coley. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC. He gave a brief background of the charges, the reasons for the original finding of impairment, the original sanction, and an overview of the subsequent review hearings. On impairment, he submitted that there are no documents which may suggest that there has been any improvement in Ms Coley's fitness to practise since the previous review of the order. He invited the panel to consider *Abrahaem v GMC* [2008] EWCH 183 (Admin) and submitted that the persuasive burden is on the registrant to prove that there is an improvement in the

fitness to practise. This burden, he submitted, has not been discharged. It is therefore the NMC's position that the registrant is currently impaired.

With regard to sanction, Mr Choudhury submitted that there is no change of circumstances, no documents to change the previous conditions of practice order. The matter has not moved on since the previous hearing in 2023. He invited the panel therefore to at the least continue the current sanction, in light of the absence of any new facts. He continued to submit that a more serious sanction remains at the panel's discretion. With regard to suspension or strike off, Mr Choudhury pointed the panel towards the following aggravating factors: the seriousness of the original charges found proved; the absence of any documents proving insight or remediation.

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 Ms Coley's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Ms Coley was liable to repeat matters of the kind found proved. It had not received any new information to suggest that Ms Coley had sufficiently remediated or strengthened her practice. This remains true in today's hearing.

The panel found that Ms Coley has not been able to comply with the conditions imposed in the previous hearing and has not been able to demonstrate that she can practise safely and kindly. There is no up to date reflective submissions and there appears to be a recent failure to engage with the process, with minimal correspondence and absence from the hearing. There is also no evidence to suggest that she has been able to address issues with the administration of medication and escalation found by the original panel. There have been no certificates put before the panel to this effect, or to demonstrate any professional development. There have also been no steps taken to maintain skills and knowledge, nor any record of safe practice.

The panel therefore decided that a finding of continuing impairment is necessary on the ground 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 is also required on the ground of public interest.

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

### **Decision and reasons on sanction**

Having found Ms Coley'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 its previous findings on impairment in coming to this decision. It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing/midwifery profession and the NMC as its regulator.

It 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 Ms Coley'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 Ms Coley'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 a conditions of practice order on Ms Coley'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 was of the view that a conditions of practice order has, up until this point been ineffective. Ms Coley has not been able to continuously comply with the conditions for a period of five years. The panel decided that the lack of progress over such a significant time period makes it unlikely for any change to occur with another conditions of practice order; the panel were of the view that another such order would leave a subsequent panel in the same position as the present one, putting a burden on the NMC's time and resources. The panel therefore could not formulate a conditions of practice order that would be workable and would serve a useful purpose.

The panel next considered imposing a suspension order. The panel noted that Ms Coley has told previous reviewing panels that she has been unable to find employment as a nurse due to the conditions of practice order which has had in effect been akin to a suspension order. The panel was of the view that imposing a suspension order would neither lead to any more progress, nor serve public protection purposes any more than a conditions of practice order.

The panel then considered a striking off order. It was, however, of the view that this would be wholly disproportionate in the circumstances. The panel referred to the sanction guidelines which invite the panel to consider the following:

- *Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- *Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not struck off from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel were of the view that while there are concerns about Ms Coley's professionalism, the public confidence in nurses can still be maintained if Ms Coley is not struck off the register. It was also of the view that striking off is not the only sanction which

is sufficient to protect patients, since a conditions of practice order or suspension order would achieve this specific purpose. For these reasons, the panel decided that a strike off would be disproportionate in these circumstances.

The panel then considered NMC's Rev-3h guidance on sanctions. Specifically, it considered the following from the guidance, with regard to a lapse with impairment:

*A panel will allow a professional to lapse with impairment where:*

- *the professional would no longer be on the register but for the order in place ;*
- *the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- *a striking off order isn't appropriate.*

As Ms Coley has been on a conditions of practice order since 2019, she cannot have renewed her registration with the NMC, and therefore would not be on the register but for the order. The panel found impairment on these facts since there was no evidence to the contrary, and the panel cannot therefore conclude that Ms Coley can return to unrestricted practice within a reasonable period of time. In light of the guidance at Rev-3h, the panel considered that it was appropriate to make no further order and allow the current order to lapse on 22 January 2025. On the order lapsing, Ms Coley would not be able to return to practice as she would no longer be registered as a nurse. If she were to apply to re-register, the finding of impairment made by the panel today would be taken into account. The panel would therefore be satisfied that the public would be protected as the order would show that her registration lapsed with a finding of impairment. A striking off order is also inappropriate for the reasons outlined above.

For these reasons, the substantive conditions of practice order will be allowed to lapse at the end of the current period of imposition, namely the end of 22 January 2025 in accordance with Article 30(1).

This will be confirmed to Ms Coley in writing.

That concludes this determination.