

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

**Substantive Order Review Hearing
Thursday 19 December 2024**

Virtual Hearing

Name of Registrant: Niall O’loingsigh

NMC PIN 15B1103E

Part(s) of the register: Registered Nurse - Sub Part 1
Mental Health Nursing – 18 June 2015

Relevant Location: Bristol

Type of case: Misconduct

Panel members: Andrew Quested Harvey (Chair, Lay member)
Anne Rachael Browning (Registrant member)
Joanne Smith (Lay member)

Legal Assessor: Trevor Jones

Hearings Coordinator: Adaobi Ibuaka

Nursing and Midwifery Council: Represented by Lindsey McFarlene, Case Presenter

Niall O’loingsigh: Present and represented by Jennifer McPhee, instructed by Anderson Strathern

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) to come into effect at the end of 27 December 2024 in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private

[PRIVATE].

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order.

This order will come into effect at the end of 27 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 24 November 2024.

The current order is due to expire at the end of 27 December 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 26 November 2020 failed to administer Carbocisteine 375mg to Resident E.
[Proved by admission]*
2. *On 26 November 2020 in respect of Resident E, instructed Colleague 1 to:*
 - (a) Enter Code F on Resident E's MAR Chart. **[Proved by admission]***
 - (b) Write on the back of Resident E's MAR chart that Resident E was asleep at the time of the medication round. **[Proved by admission]***
3. *On 26 November 2020 incorrectly entered Code F on Resident E's MAR Chart.
[Proved by admission]*

4. *Your actions in charge 2 and/or charge 3 were dishonest in that you were attempting to mislead others into believing that Resident E was asleep at the time of administering the medication when you knew;*
 - (a) *That Resident E was capable of taking their medication. **[Proved by admission]***
 - (b) *That you had omitted to administer Resident E's medication. **[Proved by admission]***

5. *Failed to document on Resident A's MAR chart on 12 April 2021 indicating that you had administered;*
 - (a) *Amlodipine 10mg. **[Proved by admission]***
 - (b) *Bisoprolol 1.25mg. **[Proved by admission]***
 - (c) *Clopidogrel 75mg. **[Proved by admission]***
 - (d) *Lansoprazole 15mg. **[Proved by admission]***

6. *Failed to document on Resident B's MAR chart on 12 April 2021 indicating that you had administered;*
 - (a) *Apixaban 5mg. **[Proved by admission]***
 - (b) *Bisoprolol 2.5mg. **[Proved by admission]***
 - (c) *Fludrocortisone 100micrograms. **[Proved by admission]***
 - (d) *Lansoprazole 15mg. **[Proved by admission]***

7. *Failed to document on Resident C's MAR chart on 18 May 2021 indicating that you had administered;*
 - (a) *Adcal-D Dissolve 1500mg/400unit effervescent tablets. **[Proved by admission]***
 - (b) *Citalopram 20mg. **[Proved by admission]***
 - (c) *Clopidogrel 75mg. **[Proved by admission]***
 - (d) *Lansoprazole 15mg. **[Proved by admission]***
 - (e) *Folic Acid 5mg. **[Proved by admission]***

8. *Failed to document on Resident D's MAR chart on 18 May 2021 indicating that you had administered 100g Nutricrem dessert. **[Proved by admission]***

9. On 18 May 2021 failed to dispense Resident B's medication separately from the liquid medication. **[Proved by admission]**
10. On 18 May 2021, having discovered that Resident B had been administered their medication, failed to;
- (a) Dispose of the medication by placing it in a tamper-proof container.
[Proved by admission]
- (b) Recording the disposal of medication in the disposal ledger.
[Proved by admission]
11. On 13 May 2021 behaved in an unsupportive and/or unprofessional manner towards a colleague by stating;
- (a) "give it, I don't care anymore" or words to that effect. **[Proved by admission]**
12. On or after the 18 May 2021 behaved in an unsupportive and/or unprofessional manner towards Colleague 2 by;
- (a) ...
- (b) Stating "well done mate, you did the right thing but I may lose my PIN though" or words to that effect. **[Charge found proved]**
- (c) Attempted to discuss with Colleague 2 the concerns that Colleague 2 had reported in relation to your nursing practice. **[Charge found proved]**
13. ...

The original panel determined the following with regard to impairment:

'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 found that all limbs of the "test" are engaged in this case. The panel finds that residents were put at risk of harm a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel took into account that you made admissions early on in respect of your failures, you demonstrated an understanding of how your actions had the potential for a risk of harm to those in your care and the potential impacts on continuity of patient care. Further, the panel was satisfied that you have

demonstrated an understanding of why your actions were wrong and how this impacted negatively on the reputation of the nursing profession.

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 you have been working well within your current role and that you have been subject to an interim conditions of practice order for a significant period of time and that you have, without fail, fully complied with the interim order. Further, the panel took into account the testimonials which attest to your good character, the evidence of training undertaken by you to address the concerns, the reflective accounts provided by you including your essay on the importance of honesty and integrity in nursing.

In respect of the repeated record keeping failures, based on your evidence at the impairment stage, the panel noted that you acknowledge these occurred [PRIVATE]. During your evidence, when asked about what strategies you would implement if you were faced with a similar scenario whilst you acknowledged the paramount importance of safe medication administration and the required level of prioritisation [PRIVATE], the panel was not satisfied that you addressed how you would handle a situation [PRIVATE] and what you would do to address this.

The panel was not satisfied that you have fully demonstrated that you would be able to in future identify when you have reached your capacity, and how you would safely manage these circumstances so as not to compromise patient care. The panel was not satisfied that you have identified what steps you would take to seek support for any limitations you might identify within your practice, nor was it satisfied that you have demonstrated a full understanding as to your capacity [PRIVATE] in high pressure situations. The panel also took into account that these failures occurred despite them being formally raised with you and you having received a final written warning in relation to them. Given that there has in the past been repetition of the failures even after you had implemented measures to try and avoid them occurring and that you have not sufficiently demonstrated what steps you would take to ensure that they did not occur, there is a real risk of repetition of these

failures. The panel was not satisfied that it has seen evidence that you have demonstrated that you recognise your limitations in respect of competing priorities and how you would manage those to prioritise and preserve patient safety, notwithstanding that you are working well in the role you are currently in.

In light of this, the panel decided that a finding of impairment is necessary on the grounds of public protection. The panel found that these concerns relate to a core and fundamental aspect of nursing care and the potential consequences of this not being carried out safely impact directly on patient care.

When considering public interest, the panel was mindful that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. However, the panel determined that, based on the evidence before it, and taking into account the circumstances and context in which your dishonesty occurred, the likelihood of repetition of this conduct is very low. The panel noted that this related to a single instance of dishonesty, and that you have addressed this by way of counselling and have demonstrated insight and remorse on this matter. The panel was satisfied that you have demonstrated that your misconduct in relation to the dishonesty would not be repeated.

The panel determined that, when balanced against the insight and remorse you have demonstrated in relation to this matter, your compliance with the interim conditions of practice and the character references which attest to your honesty, an ordinary member of the public apprised of the facts of this case would not deem that a finding of impairment is necessary on public interest grounds.

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

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on your 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;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force;*
and
- Conditions can be created that can be monitored and assessed.*

The panel considered the factors above and found that they do apply to the circumstances of this case. Further, it determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel took into account that you have been subject to an interim conditions of practice order for a significant period of time and that you have without fail complied with this in full. The panel was therefore satisfied that you would be willing to meaningfully engage and comply with any conditions of practice it may impose.

The panel had regard to the fact that since these incidents happened, you have been working well as a registered nurse in your current role with the provisions of an interim conditions of practice order and therefore determined that it was in the public interest that, with appropriate safeguards, you should be able to continue to practise as a nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

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 circumstances of your case given its findings in relation to your developing insight,

steps taken to address the concerns and that you have demonstrated that you are able to practise safely with restrictions on your registration.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions 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. Should you undertake a new role which involves management and administration of medications, you must update your training and be assessed as competent in this area. This should include, being supervised but not always directly observed by a registered nurse and subsequent successful completion of a competency assessment.*
- 2. You must provide a reflective piece detailing the following:*
 - a. How you are prioritising patient safety whilst balancing competing demands of nursing practice prior to any review of this case. It should address any limitations you identify within your nursing practice and how you manage these limitations in your current role and/or any potential future nursing role.*
 - b. How you ensure that you are maintaining professionalism in respect of your conduct with colleagues whilst under the pressures of nursing practice.*

You must provide examples of how you have addressed the above in your nursing practice.

3. *You will send the NMC a report seven days in advance of the next NMC hearing or meeting from your line manager.*
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'*

Decision and reasons on current impairment

The panel has considered carefully whether your 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 ability to 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 evidence submitted by Ms McPhee on your behalf. It has taken account of the submissions made by both parties.

Ms McFarlane made references to the background of the case, highlighting the charges found proved and not proved, underlining what the original panel took into account that amounted to misconduct, its finding of impairment and the sanction imposed. Ms McFarlane drew the panel's attention to what the original panel stated that today's panel would be assisted by:

'Any future panel reviewing this case would be assisted by:

- *Your attendance at any future review hearing of this case.*
- *Evidence of any training you have undertaken in the medications management and administration'*

Ms McFarlane stated that you have fully complied and engaged with conditions 4 to 8 in the conditions of practice order and engaged with the NMC throughout, [PRIVATE] although you have completed three online training courses in relation to medication management and administration.

[PRIVATE] Ms McFarlane highlighted to the panel, your line manager's letter by which the NMC was made aware of two incidents that happened at your place of work on 18 March 2024 that meant you were given a written warning and again on 10 June 2024 which led to formal action under the employer's disciplinary policy which led to a written warning for a period of 12 months.

Ms McFarlane explained the allegation [PRIVATE] in respect of a conversation due to current conditions of practice order. Ms McFarlane stated that this relates to the nature of charges 12(b) and 12(c) found proved. She submitted that this showed a potential for repetition of such behaviour; she acknowledged that, in your reflective piece, you did say that you were remorseful.

Ms McFarlane made reference to the case of *Abrahaem v GMC 2008 EWHC 183 (Admin)* about how the persuasive burden is on you to demonstrate that you are no longer impaired. Ms McFarlane submitted that your insight is still limited and hasn't substantially improved.

Ms McFarlane submitted that the NMC's position was that you are still impaired and invites the panel under to extend your current conditions of practice order so you may further develop your insight. She further submitted, that the panel may find it appropriate to vary the conditions or leave them unchanged and ask for an updated copy of your performance improvement plan.

The panel also had regard to Ms McPhee's oral submissions. Ms McPhee submitted to the panel that you accepted that you remain currently impaired and that a conditions of practice order remained necessary.

Ms McPhee drew the panel's attention to your reflective piece, extensive training courses and how you had complied with the interim conditions order and then the conditions of practice order.

Ms McPhee explained to the panel that [PRIVATE], in order to strengthen your practice, you undertook online training courses, which are accredited and recognised by the NHS [PRIVATE]. She stated the online training course were extensive [PRIVATE].

She further submitted that you have had a written warning and had to undergo an informal conduct plan [PRIVATE], citing that in the last six months there has been no reoccurrence of these or similar incidents.

Ms McPhee went on to speak about how you engaged with the local disciplinary proceedings and engaged in the fast-tracked aspect of this.

Ms McPhee submitted that the panel should continue the current conditions of practice, which will provide scrutiny of your practice.

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 your fitness to practise remains impaired.

The panel noted that the original panel found that you had developing insight. This panel acknowledges that you had made significant effort to comply with the conditions of practice order, have written a reflective piece detailing the incidents that happened [PRIVATE].

Your reflection offered the panel no evidence as to how you would deal with similar circumstances in the future.

In its consideration of whether you had taken steps to strengthen your practice, the panel took into account the training courses you had undertaken, which demonstrated that you were attempting to improve your skills and competence. It noted that the training you undertook for the safe handling of medication management and administration was accredited and recognised by relevant bodies. The panel acknowledged the positive testimonials and feedback you have received, indicating that you could practice kindly.

The panel noted that you were currently not working in a clinical setting where medicines administration and management were not part of your role. The panel further noted the virtual training with regards to medicines management that you had undertaken.

The original panel determined that you were not liable to repeat matters of the kind found proved in relation to the allegation before it of dishonest conduct. This panel has heard evidence from your employer's investigation report as to how you tried to persuade a social worker not to report to the NMC due to your current conditions of practice. The panel noted that, in your reflective piece, that this may have been a misrepresentation of your intent and you did you demonstrate remorse for this and explained that this interaction;

[PRIVATE].

In light of this, this panel determined that whilst the matters concerning your interaction with a social worker this year may be regarded as unprofessional and was a similar matter to that which was highlighted in the original NMC referral whilst the panel were concerned about this most recent incident there was no submission made that constituted dishonesty and taking all into account the panel were satisfied that you were not liable to repeat this in the future.

The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection alone.

For these reasons, the panel finds that your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 your 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 your 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 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 complying with the current substantive conditions of practice order, as far as you are able, that you have been engaging with the NMC and are willing to comply with the conditions imposed.

The panel was of the view that extending the current conditions of practice order is sufficient to protect patients, noting as the original panel did that there was no evidence of general incompetence and no deep seated attitudinal problems. In this case, there are conditions that were formulated would continue to protect patients during the period they are in force.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case given that you have been engaging with the regulatory process and that there is evidence of improvement, .

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 27 December 2024. It decided to extend the current 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. Should you undertake a new role which involves management and administration of medications, you must update your training and be assessed as competent in this area. This should include, being supervised but not always directly observed by a registered nurse and subsequent successful completion of a competency assessment.
2. You must provide a reflective piece detailing the following:
 - a. How you are prioritising patient safety whilst balancing competing demands of nursing practice prior to any review of this case. It should address any limitations you identify within your nursing practice and how you manage these limitations in your current role and/or any potential future nursing role.

- b. How you ensure that you are maintaining professionalism in respect of your conduct with colleagues whilst under the pressures of nursing practice.

You must provide examples of how you have addressed the above in your nursing practice.

- 3. You will send the NMC a report seven days in advance of the next NMC hearing or meeting from your line manager.
- 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 9 months.

This condition of practice order will take effect upon expiry of the current conditions of practice order, namely the end of 27 December 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing 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 for another order.

Any future panel reviewing this case would be assisted by:

- Attendance at a future review hearing.
- Evidence of any further training undertaken.
- Evidence of any opportunity taken by you to develop your medication management and administration skills, within a clinical setting, with a report.
- Any updated employer's informal action plan, to address conduct concerns.

This will be confirmed to you in writing.

That concludes this determination.