

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

**Substantive Order Review Hearing
Monday 23 December 2024**

Virtual Hearing

Name of Registrant: Matthew Quinn

NMC PIN 08H1809E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nurse – September 2008

Relevant Location: London

Type of case: Misconduct

Panel members: Anthony Griffin (Chair, Lay member)
Anne Murray (Registrant member)
Robert Marshall (Lay member)

Legal Assessor: Alain Gogarty

Hearings Coordinator: Monsur Ali

Nursing and Midwifery Council: Represented by Matt Kewley, Case Presenter

Mr Quinn: Not present and not represented at the hearing

Order being reviewed: Conditions of practice order (24 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (5 months)**

Decision and reasons on service of Notice of Hearing

The panel noted at the start of this meeting that the Notice of Hearing had been sent to Mr Quinn's registered email address by secure email on 19 November 2024.

The panel also noted that the Notice of Hearing had been sent to Mr Quinn's representative on 19 November 2024.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Quinn had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Decision and reasons on proceeding in the absence of Mr Quinn

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

Mr Kewley submitted that Mr Quinn had voluntarily absented himself. In support of this submission, Mr Kewley stated that the NMC had made a number of attempts to secure his attendance but Mr Quinn did not respond. The last communication from his representative occurred on 28 July 2022, where Mr Quinn's difficult personal circumstances were discussed. Since then, the NMC has sent multiple inquiries, including emails on 8 July 2024, and 19 November 2024, asking if he wished to attend a hearing. The latest attempt was made by email on 17 December 2024, but again, there was no response. As a result, it appears that Mr Quinn is not engaging with the proceedings, and the reason for his absence remains unknown.

Mr Kewley submitted that given this lack of communication, there has been no request to postpone the hearing, and there is no indication that delaying it would encourage Mr

Quinn's attendance. Mr Kewley invited the panel to proceed with the review of the order, which is set to expire on 19 January 2024.

Mr Kewley reminded the panel that Mr Quinn has not requested an adjournment. He submitted that in light of the evidence outlined above, it is unlikely that an adjournment would secure the attendance of Mr Quinn at any future date. Mr Kewley invited the panel to consider the public interest in the expeditious review of this case.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mr Quinn. In reaching this decision, the panel has considered the submissions of Mr Kewley and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Quinn;
- The NMC has taken all reasonable steps to secure Mr Quinn's attendance at this review hearing;
- There has been no communication from Mr Quinn since July 2022;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- 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 Mr Quinn.

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order for a further period of five months.

This order will come into effect at the end of 19 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 18 December 2020. This order was reviewed on 20 December 2021 where the panel decided to confirm the conditions of practice order for a period of 12 months. The order was last reviewed on 13 December 2022 and the panel decided to extend the conditions of practice order for a further period of 24 months.

The current order is due to expire on 19 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:

- 1) *Between 23 and 25 February 2018 failed to communicate appropriately in that you:*
 - a) *Shouted at colleagues from the London Ambulance Service and stated 'These bloody LAS crews' or words to that effect.*
 - b) *Shouted at a distressed member of a patient's family 'get out' or words to that effect.*
 - c) *Complained loudly about a distressed member of a patient's family.*

- d) *Stated to a junior colleague on the telephone 'I can't understand a word you are saying' or words to that effect before hanging up.*
 - e) *Failed to attend a multi-disciplinary hand over from the day shift without good reason.*
 - f) *Unnecessarily demanded Colleague B return early from her break to carry out a patient transfer.*
- 2) *On 16 April 2018 failed to communicate appropriately in that you interrupted Colleague C, failed to listen or act upon advice when he was explaining elements of your role during a supernumerary shift.*
- 3) *On 11 August 2018 used inappropriate restraint and treatment on Patient A in that you;*
- a) *Restrained Patient A in a wheelchair by tying a sheet around him.*
 - b) *Placed a commode/bed pan liner under Patient A's neck.*
 - c) *Placed a clinical waste bag over Patient A's head.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.'

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

'The panel considered whether Mr Quinn's fitness to practise remains impaired.

The panel noted the email from Mr Quinn's representative, dated 28 July 2022, which states:

[PRIVATE]

He is mindful that due to this he has not kept his nursing skills up to date, is there anywhere he can contact to look into how to get back into nursing and refresh his skills after such a gap?

Matthew is happy for proceedings at this stage to be conducted as a meeting, as he does not have any further info/documents to submit at present.

I am still assisting Matthew with the case ongoing and I'm happy to receive and pass on any correspondence. If you need any further information please let me know.'

The panel did not have any material evidencing Mr Quinn's compliance with the conditions of practice order. However, the panel acknowledged Mr Quinn's personal circumstances in mitigation. The panel noted the email of 28 July 2022 [PRIVATE].

The panel noted that, other than this update, it had no information before it to demonstrate that there was any material change in circumstances since the last hearing. The panel therefore determined that, for the same reasons as the original panel, Mr Quinn'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 Mr Quinn's fitness to practise remains impaired.'

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

'Having found Mr Quinn'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 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 Mr Quinn'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 Mr Quinn'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 imposing a further conditions of practice order on Mr Quinn'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 accepted that Mr Quinn has been unable to comply with the existing conditions of practice due to his [PRIVATE] but has been engaging with the NMC and his representative has indicated his willingness 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 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 and would not be a reasonable response [PRIVATE]. Mr Quinn is engaging with this process to the best of his ability in the circumstances, he has recognised that he acted inappropriately, he has previously provided evidence of developing insight and stated at his first hearing that he would like to return to nursing.

Accordingly, the panel determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of 2 years, which will come into effect on the expiry of the current order, namely at the end of 18 January 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 work with your line manager to create a personal development plan ("PDP"). Your PDP must address the following concerns:
 - a. Developing communication skills; and*
 - b. Appropriate use of restraint**

- 2. You must ensure that you are supervised by another registered nurse at any time you are working until you have been signed off by your line manager as competent to do so without such supervision. Your supervision must consist of:*

- a. *Working at all times on the same shift as, but not always directly observed by, a registered nurse of equal or senior band to yours.*
 - b. *Fortnightly meetings with your line manager to discuss your general performance, as well as your progress towards achieving the aims set out in your PDP.*
3. *You must send your case officer a report from your line manager, setting out the standard of your general performance, as well as your progress towards achieving the aims set out in your PDP, prior to any NMC review hearing or meeting.*
4. [PRIVATE]
5. *You must keep us 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.*
6. *You must keep us 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.*
7. *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.*
8. *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.*
9. *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 a period of 2 years. This is not an indication that this panel views the case as more serious than previous panels but is intended to allow Mr Quinn time to potentially undertake a return to practice course or other appropriate training, obtain employment, and demonstrate compliance with the conditions. The panel reminds Mr Quinn that he may request an early review at any stage should his circumstances materially change.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 January 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 Mr Quinn 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.'

Decision and reasons on current impairment

The panel has considered carefully whether Mr Quinn's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of the nurse, midwife or nursing associate 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. It has taken account of the submissions made by Mr Kewley on behalf of the NMC. Mr Kewley provided the panel with the summary of the case and invited it to find current impairment on the basis that there is no evidence to demonstrate that Mr Quinn had taken steps to address the concerns or reflected on his misconduct since the imposition of the substantive order.

Mr Kewley submitted that Mr Quinn has not worked as a nurse since the first order was imposed in December 2020, and although previous panels accepted plausible explanations, no further evidence of insight or remediation has been presented. Additionally, Mr Quinn has disengaged from the process for reasons that remain unclear. As a result, there has been no progress since the last review, and the risk identified by previous panels has not been addressed. Mr Kewley submitted that Mr Quinn's fitness to practise remains impaired due to the lack of insight, reflection, and remediation.

Mr Kewley submitted that Mr Quinn had a history of working without issues, showed remorse, and had engaged with the NMC in the past. However, he has now been absent for a prolonged period, with no explanation. He stated that this cannot continue indefinitely, and some form of engagement must occur, whether he expresses a desire to return to nursing or explains why he cannot.

Mr Kewley invited the panel to consider a short extension of the current order, lasting five or six months, rather than the longer extensions considered previously. This he stated would protect the public while maintaining public confidence. The panel is also encouraged to make it clear to Mr Quinn that continued disengagement is unacceptable, and some form of engagement is necessary moving forward.

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 Mr Quinn's fitness to practise remains impaired.

The panel determined that there is no evidence before it which demonstrates Mr Quinn had progressed since the findings of the previous panel which, having heard all the evidence, determined that there was a risk of significant harm to patients. The previous panel determined that Mr Quinn was liable to repeat matters of the kind found proved.

Today's panel has received no new evidence which demonstrates Mr Quinn had taken steps to strengthen his practice or address the concerns. It notes that there is a persuasive burden upon him to satisfy this panel that he had addressed all the concerns identified by the previous panel.

The panel noted that it had no information before it to demonstrate that there was any material change in circumstances of the case since the last review. The panel therefore determined that, for the same reasons as the original panel, Mr Quinn'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, therefore, determined that, due to the seriousness of the charges found proved and to maintain confidence in the profession and the NMC as the regulator, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mr Quinn'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 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 Mr Quinn'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 Mr Quinn'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 imposing a further conditions of practice order on Mr Quinn'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 accepted that Mr Quinn has previously indicated that he had been unable to comply with the existing conditions of practice [PRIVATE] but had engaged with the NMC and his representative had indicated his willingness 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 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 and would not be a reasonable response [PRIVATE] at this stage. Mr Quinn had recognised that he acted inappropriately, he has previously provided evidence of developing insight and stated at his first hearing that he would like to return to nursing. The panel noted that this was the first time Mr Quinn had not engaged with the NMC prior to a hearing or meeting. Accordingly, the panel decided that it would be prudent to afford him a further opportunity to address the matters clearly set out in this decision. However, given the prolonged history of these proceedings, the lack of progress to date, and Mr Quinn's non-engagement since July 2022, a future reviewing panel is unlikely to extend the current conditions of practice order. It is likely that a more restrictive order will be considered. The sanction of a striking-off order will be available to that panel. It is likely to give serious consideration to this sanction in the absence of substantial engagement with the NMC, evidence of remediation and developing insight and a clear indication of Mr Quinn's future intention for his nursing career.

Accordingly, the panel determined, pursuant to Article 30(1)(c), to make a conditions of practice order for a period of five months, which will come into effect on the expiry of the current order, namely at the end of 19 January 2025. 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 work with your line manager to create a personal development plan ("PDP"). Your PDP must address the following concerns:
 - a. Developing communication skills; and
 - b. Appropriate use of restraint

2. You must ensure that you are supervised by another registered nurse at any time you are working until you have been signed off by your line manager as competent to do so without such supervision. Your supervision must consist of:
 - a. Working at all times on the same shift as, but not always directly observed by, a registered nurse of equal or senior band to yours.
 - b. Fortnightly meetings with your line manager to discuss your general performance, as well as your progress towards achieving the aims set out in your PDP.

3. You must send your case officer a report from your line manager, setting out the standard of your general performance, as well as your progress towards achieving the aims set out in your PDP, prior to any NMC review hearing or meeting.

4. [PRIVATE]

5. You must keep us 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.

6. You must keep us 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.

7. 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.

8. 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.

9. 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 five months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 19 January 2025, 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 Mr Quinn 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:

- Mr Quinn's engagement with the NMC.
- A reflective piece in a recognised format such as Gibbs' Reflective Cycle that demonstrates further insight and understanding of his misconduct, specifically in the areas of communication and inappropriate restraint.
- Any evidence of Mr Quinn having kept his nursing skills and knowledge up to date and/or any evidence of relevant training.
- Any references or testimonials from paid or unpaid work.

This decision will be confirmed to Mr Quinn in writing.

That concludes this determination.