

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

**Substantive Order Review Hearing
Wednesday, 18 December 2024**

Virtual Hearing

Name of Registrant: Anita Jane Stoneley

NMC PIN 17F1763E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing-May 2018
31 May 2021

Relevant Location: Derbyshire

Type of case: Misconduct

Panel members: Rachel Childs (Chair, Lay member)
Vivienne Stimpson (Registrant member)
Gill Mullen (Lay member)

Legal Assessor: Oliver Wise

Hearings Coordinator: Audrey Chikosha

Nursing and Midwifery Council: Represented by Uzma Khan, Case Presenter

Mrs Stoneley: Not present and not represented

Order being reviewed: Conditions of Practice (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of Practice (12 months) to come into effect on 7 January 2025 in accordance with Article 30(1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Stoneley was not in attendance and that the Notice of Hearing had been sent to Mrs Stoneley's registered email address by secure email on 14 November 2024.

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

The panel accepted the advice of the legal assessor.

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

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

Ms Khan submitted that there had been no response from Mrs Stoneley regarding her attendance at today's hearing. Ms Khan submitted that the panel should proceed in her absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Stoneley. In reaching this decision, the panel has considered the submissions of the case presenter, the representations from Mrs Stoneley and the advice of the legal assessor. It has had a particular regard to the overall interests of justice and fairness to all parties. The main considerations were:

- No application for an adjournment has been made by Mrs Stoneley;
- Mrs Stoneley has sent an email dated 16 December 2024 stating she does not intend to return to a caring role.
- Mrs Stoneley has not responded to any of the correspondence sent to her about this hearing regarding her attendance.
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- 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 Mrs Stoneley.

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

At the outset of the hearing, Ms Khan made a request that this case be held partly in private on the basis that proper exploration of Mrs Stoneley's case involves reference to her personal circumstances and family life. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when any reference to Mrs Stoneley's personal circumstances or family life are raised in order to protect her privacy.

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 7 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 9 December 2021. On 28 November 2022, the conditions of practice order was varied and continued for a further 12 months. On 30 November 2023, a substantive order review hearing was due to be heard but was adjourned. The order was then reviewed on 19 December 2023 when the panel confirmed and continued the conditions of practice order for a further 12 months.

The current order is due to expire at the end of 7 January 2025.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse

- 1. On or around 10 September 2019 and over 3 consecutive days failed to give the correct dose of Doxycycline to Resident A.*
- 2. On 26 October 2019 signed a controlled drugs register incorrectly stating 5 vials of Midazolam were present.*
- 3. On 27 November 2019 failed to administer the correct dose of Carbamazepine to Resident B.*
- 4. On 26 June 2020;*

- a. Potted medication for more than one resident listed in Schedule 1 before it had been administered;
- b. Signed the Medication Administration Record for more than one resident listed in Schedule 1 before medication had been administered,
- c. Failed to hand over resident care before leaving shift.

5. On or after 26 June you failed to engage with your employers investigation of the facts of charge 4.

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

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

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

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 the following in regard to your insight:

'At this hearing the panel noted that Mrs Stoneley previously worked as a support worker and had been receiving support from her current employer. However, the panel had no independent information before it to confirm that Mrs Stoneley has been able to comply with the current conditions of practice order in place, whether she has strengthened her practice, and how her insight has developed. The panel noted that there has been no evidence of material change in regard to Mrs Stoneley's nursing practice since the last hearing.'

In its consideration of whether you have taken steps to strengthen your practice, since the last review, the panel took into account your reflective piece, your sincere remorse, your explanation of the personal and professional context surrounding your misconduct, and decided that your insight into your previous misconduct, has developed. The panel also took into consideration your desire to improve your practice as a nurse.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved.

Today's panel has considered your remorse and embarrassment regarding your previous misconduct. You have accepted that your practice fell short of what is expected from a registered nurse. The panel paid particular regard to the fact that your insight has developed further, and you now have a better understanding on why you walked out without handing-over and did not attend the investigation at your previous role. The panel was of the view that you have accepted your medication management mistakes also, and that you have made progress, and have a strong desire to return to practicing as a registered nurse.

The panel further considered the fact that you have been working as a support worker and to some extent have been able to demonstrate medicines administration, albeit, for a single patient. However, it was of the view that your current employment has not provided you with a sufficient opportunity to improve your practice as a registered nurse or to comply with your conditions. The panel took into account that you have completed the mandatory training within your current employment but determined that this is not sufficient to evidence that you are no longer impaired. The panel further determined that, although you have taken demonstrable steps to improve your practice, you have not yet provided evidence of competence in medicines administration more generally, and therefore, there remains a risk of repetition.

In light of this, this panel determined that you are still liable to repeat matters of the kind found proved, as you have not had the opportunity to improve your practice within the nursing environment. 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 there is insufficient evidence of competence in medicines administration, and therefore, the public confidence in the profession would be undermined if you were allowed to practice as a nurse, unrestricted at this time. Therefore, a finding of current impairment on public interest grounds is also required.

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

The last reviewing panel determined the following with regard to 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 unable to comply with conditions of practice due to your current employment status but 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, noting that there was no evidence of general incompetence, no deep-seated attitudinal problems. In this case, there are conditions which 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 circumstances of your 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 7 January 2024. It decided to confirm and continue with 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 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.**

- 2. 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.**

- 3. 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 when you are working independently**

- 4. 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.**

5. 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.

6. You must not be the sole nurse on duty.

7. You must ensure you are directly supervised by another registered nurse at any time you are administering medication until you have been assessed as competent. Any assessment of competence undertaken with regard to this condition must include a theoretical and practical component.

Successful completion of the practical component must be signed off by a registered nurse of Band 6 or above (or a nurse of equivalent seniority if working in an environment without banding).

8. After you have successfully completed the assessment of competence referred to at condition 7, you must ensure you are indirectly supervised by another registered nurse at any time you are administering medication.

9. You must meet with your line manager or a nominated deputy at least monthly to discuss your practice in the following areas:

a. medication administration,

b. medication management

c. dealing with challenging conversations/situations

10. You must keep a weekly reflective diary which must include your reflections on the shifts you work and be discussed in your monthly meetings with your line manager/nominated deputy.

11. You must send to your case officer at least 7 days prior to any review of this order a copy of:

a. The notes of your monthly meetings with your line manager/nominated deputy

b. Your reflective diary.

The period of this order is for 12 months.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Stoneley'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 has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Khan on behalf of the NMC. She submitted that following the last review, Mrs Stoneley worked as a support worker where she administered medication to a service user as part of her role. Ms Khan submitted that Mrs Stoneley has engaged with the NMC and demonstrated a willingness to comply with the imposed conditions; however, she has not been able to demonstrate her compliance in a nursing context.

Ms Khan submitted that Mrs Stoneley has shown remorse and developed insight into her previous misconduct. She submitted that Mrs Stoneley has completed mandatory training in her current role but not in a nursing environment. Ms Khan then informed the panel that [PRIVATE]. Mrs Stoneley indicated that she had not been in work since the beginning of the year. [PRIVATE]. Ms Khan submitted that it is in these circumstances that the NMC requests a further 12-month extension to the conditions of practice order.

Ms Khan reminded the panel that the persuasive burden is on the practitioner to demonstrate that her fitness to practise is no longer impaired. Ms Khan submitted that there has been nothing submitted by Mrs Stoneley to demonstrate that she is no longer impaired although she has engaged with the NMC.

Ms Khan submitted that previous panels did not find evidence of general incompetence or deep-seated attitudinal problems and thus a conditions of practice order is the most appropriate and proportionate order to address the specific issues identified.

Ms Khan invited the panel to continue the conditions of practice order in its current form. She submitted that while the NMC has received an indication of Mrs Stoneley's intentions, until this is substantiated evidentially, an order remains necessary to protect the public and meet the public interest.

The panel accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

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

The panel noted that the last reviewing panel found that Mrs Stoneley had developing insight. At this hearing the panel had no new information to suggest that Mrs Stoneley has developed her insight any further nor evidence of strengthened practice. The panel noted that Mrs Stoneley made admissions at the outset of the hearing as it was held as a Consensual Panel Decision (CPD).

The panel considered that the charges are serious and the misconduct in this case put patients at risk of harm. The previous reviewing panel provided a list of useful documentation for a future reviewing panel which Mrs Stoneley did not action. [PRIVATE], and no evidence to support that she is no longer impaired. The panel had no new information regarding Mrs Stoneley's fitness to practise since the last review.

In the absence of any new information, the panel could not be assured that Mrs Stoneley was not liable to repeat similar misconduct in the future. Whilst she has shown remorse and made admissions, there is no evidence that she has remediated her practice.

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 Stoneley's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Stoneley'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 Mrs Stoneley'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 Stoneley'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 Mrs Stoneley's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

Mrs Stoneley has been the subject of a conditions of practice order for nearly three years. The panel accepted that Mrs Stoneley has been unable to work under a conditions of practice order as a nurse. [PRIVATE].

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence or deep-seated attitudinal problems. In this case, there are conditions 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 circumstances of Mrs Stoneley's case because there are identifiable areas of clinical practice that can be addressed through robust conditions.

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 7 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 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.

2. 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.

3. 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 when you are working independently

4. 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.

5. 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.

6. You must not be the sole nurse on duty.

7. You must ensure you are directly supervised by another registered nurse at any time you are administering medication until you have been assessed as competent. Any assessment of competence undertaken with regard to this

condition must include a theoretical and practical component. Successful completion of the practical component must be signed off by a registered nurse of Band 6 or above (or a nurse of equivalent seniority if working in an environment without banding).

8. After you have successfully completed the assessment of competence referred to at condition 7, you must ensure you are indirectly supervised by another registered nurse at any time you are administering medication.

9. You must meet with your line manager or a nominated deputy at least monthly to discuss your practice in the following areas:

- a. medication administration,
- b. medication management
- c. dealing with challenging conversations/situations

10. You must keep a weekly reflective diary which must include your reflections on the shifts you work and be discussed in your monthly meetings with your line manager/nominated deputy.

11. You must send to your case officer at least 7 days prior to any review of this order a copy of:

- a. The notes of your monthly meetings with your line manager/nominated deputy
- b. Your reflective diary.

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 7 January 2025 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 Mrs Stoneley has 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:

- Any evidence of efforts you have made to seek work as a registered nurse;
- Any efforts made to engage with a Return to Practice Course;
- Any references from your employer regarding your competencies; particularly in relation to your medication management;
- Any evidence of how you have kept up to date with the nursing practice;
- Any further insight you can offer in relation to your misconduct.

This will be confirmed to Mrs Stoneley in writing.

That concludes this determination.