

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

**Substantive Order Review Hearing  
Thursday, 4 January 2024**

Virtual Hearing

**Name of Registrant:** Emma Lavelle

**NMC PIN:** 11A0399S

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 12 June 2015

**Relevant Location:** Glasgow

**Type of case:** Conviction

**Panel members:** Adrian Ward (Chair, Lay member)  
Mary Jane Scattergood (Registrant member)  
Sarah Fleming (Registrant member)

**Legal Assessor:** Fiona Moore

**Hearings Coordinator:** Hamizah Sukiman

**Nursing and Midwifery Council:** Represented by Jemima Lovatt, Case Presenter

**Miss Lavelle:** Present and unrepresented

**Order being reviewed:** Suspension order (6 months)

**Fitness to practise:** Not Impaired

**Outcome:** **Order to lapse upon expiry in accordance with Article 30 (1), namely 7 February 2024**

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

At the outset of the hearing, Ms Lovatt, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held wholly in private on the basis that [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application.

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.

Having heard that there will be [PRIVATE], the panel determined to hold the entirety of the hearing in private.

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

The panel decided to allow the current suspension order to lapse upon its expiry, namely at the end of 7 February 2024, in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 8 July 2022. This was reviewed on 6 July 2023, and the reviewing Fitness to Practise Committee panel imposed a further suspension order for a period of six months.

The current order is due to expire at the end of 7 February 2024.

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

The charge found proved which resulted in the imposition of the substantive order was as follows:

*'That you, a registered nurse:*

- 1. On 16 July 2020, were convicted of 'Fraudulent Scheme'. (proved)*

*And, in light of the above, your fitness to practise is impaired by reason of your conviction.'*

The reviewing panel determined the following with regard to impairment:

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

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

*The panel was of the view that you have insufficient insight. The panel considered that although you have provided a reflective statement, your oral evidence did not demonstrate consideration of how your actions may impact on patients, colleagues, the reputation of the nursing profession and the wider NHS.*

*The panel noted that the last reviewing panel found that you had developing insight. This panel determined that you are continuing to develop insight but that it is still not fully developed. This panel had sight of a reflective piece written by you where you address some of the concerns in relation to your conviction. In cross examination, when questioned as to why your conviction was serious, you were unable to provide insight to demonstrate your understanding of the impact of your fraud. The panel was not convinced that you demonstrated a full understanding of the impact of your fraudulent scheme.*

*It was of the view that the ongoing risk to public confidence in the profession has not been sufficiently reduced since the last hearing. It concluded your fitness to practise remains impaired by reason of your conviction. Health authorities must be able to place complete reliance on the integrity of*

*practitioners. 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 required.*

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

The reviewing panel determined the following with regard to sanction:

*The panel next considered whether a 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 bore in mind the seriousness of your criminal conviction and concluded that a conditions of practice order would not address the public interest identified above.*

*The panel was therefore not able to formulate conditions of practice that would adequately address these concerns arising from your conviction.*

*The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow you further time to fully reflect on the impact of your conviction. It considered that you need to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further 6-month suspension order would be the appropriate and proportionate response and would afford you adequate time to further develop your insight.*

*The panel determined therefore that a suspension order is the appropriate sanction which would satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 6 months. It*

*considered this to be the most appropriate and proportionate sanction available.'*

## **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 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. It has taken account of the submissions made by Ms Lovatt. She outlined the background of the case. She informed the panel that, since the last review, you have provided the panel with a reflective piece which addresses the elements outlined by the previous reviewing panel, undertaken further relevant training as well as produced two up-to-date testimonials. Ms Lovatt submitted that this demonstrated appropriate progress, and you have taken steps towards addressing the concerns.

Ms Lovatt submitted that, in light of your progress, the panel may consider that a further six months suspension will encourage you to further develop your reflections and insight, as well as allow you the opportunity to undertake more training and to [PRIVATE]. She further submitted, alternatively, the panel may decide that a conditions of practice order may be appropriate given the progress made, which would allow you to [PRIVATE].

Ms Lovatt outlined that this matter involves a close judgement call for the panel on whether enough progress has been made for a conditions of practice order to be an option, or whether extending the current suspension order by six months and allowing a future panel to consider the matter then would be more appropriate.

The panel also had regard to the evidence you gave under oath. You told the panel that you have developed further insight into the impact of your actions on your colleagues, the wider NHS and members of the public. [PRIVATE].

[PRIVATE].

With regard to dishonesty and the training courses you have undertaken relating to dishonesty, you told the panel that your actions were terrible, and you should have never done them. You said you are honest and open with everyone, including your new employers, about your actions, and that honesty comes from you taking full responsibility for your misconduct. You informed the panel that you have reflected on the wider impact of your dishonesty on colleagues, the NHS and the public, and the training you have completed was an eye-opener to the levels of dishonesty involved in your actions.

You said there will be further training with your new employer, and you are open to suggestions from the NMC and your employer with regard to further training you can undertake.

When asked about the impact of your actions on colleagues and the nursing profession, you told the panel that you realise that your actions would force an employer to put a more robust system for authorising bank shifts in place [to prevent fraud in the future]. You said your actions would have caused hardship to other colleagues and would have impacted your team's ability to work collaboratively. You said that a breakdown in communication could have impacted patient care, and created a tense atmosphere which patients could have noticed. You told the panel that you also realised your actions may have discouraged other nurses from undertaking extra shifts, which would leave the wards short-staffed.

You told the panel that your actions impacted colleagues who are out with the nursing profession, as it could have delayed treatment for patients. With regard to the wider NHS, you said your actions meant that other colleagues could have been tarred with the same brush, and the funding you took could have gone towards buying equipment or conducting training.

In response to questions asked by the panel about [PRIVATE], you informed the panel that you are currently working as a senior care assistant, and you have ample responsibilities in your current role. You are confident that your current role would help prepare you for the responsibilities of a registered nurse, and the workload would be similar. [PRIVATE].

In response to questions relating to the public response to your actions, you told the panel that you understood the public felt strongly about your misconduct and you accept the public were angry about it. You said, since then, you have been open and honest, and you believe the public can be forgiving. In the time you have been suspended, you told the panel that you have reflected, undertaken relevant training, and taken up a role in the healthcare profession which demonstrates your ongoing passion for nursing. You said you hoped this would be a sign to the public that you can be trusted again.

You further told the panel that [PRIVATE]. You informed the panel that you try to not let public perception affect you, and that you now 'own' what you did wrong. You said you understood it was wrong, and if people would like to talk to you about your actions, you are going to be open and honest to them about it.

In her closing statement, Ms Lovatt submitted that this matter is a question of necessity. She further submitted that the NMC's position is in between a further period of suspension and an imposition of a conditions of practice order. The NMC accepts that clear progress has been made and you have taken the right steps to address the concerns outlined by the previous reviewing panel. However, she submitted that this is a serious incident involving dishonesty, and there is an ongoing need to protect the public interest and maintain public confidence in the profession and its regulator. She invited the panel to consider this balance in reaching its decision.

In your closing statement, you apologised for your failings to the NMC, the NHS and your colleagues. You submitted that [PRIVATE], and you are more open and honest about your actions now than you were previously. You further submitted that you

have continued to work in the profession that you love, and that nursing is your passion and calling. You submitted that you hoped the panel considers the testimonials it has received and your reflective piece and conclude that you have taken steps to remediate. You told the panel that you have taken on board what previous panels have told you, and you have gained the insight that was requested. You said that you hope this has been shown clearly today.

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 last reviewing panel found that you demonstrated developing, yet limited insight. The previous reviewing panel noted that your evidence did not demonstrate consideration of how your actions may impact patients, colleagues, the reputation of the nursing profession and the wider NHS. The previous reviewing panel was not convinced that you demonstrated a full understanding of the impact of your fraudulent scheme.

At this hearing, this panel concluded that you have demonstrated full insight into your actions, and its impact on your colleagues, members of the public and the wider NHS. The panel considered your reflective piece, the two, up-to-date testimonials you provided, the relevant training you have completed and your evidence regarding your supportive current employer. The panel also considered the evidence you gave under oath and concluded that you were authentic and genuine in your statements regarding how you are open to guidance on how you can undertake further training, and how you recognised the impact of your actions on others.

The panel determined you took full responsibility for your actions, and you have not sought to minimise or deflect responsibility onto [PRIVATE]. The panel had particular regard to your reflective piece, which stated:



'[PRIVATE]'.

The panel concluded that this demonstrated your insight, and your recognition that your actions should not be repeated.

The panel considered that you self-referred to the NMC, and you have been engaging openly and honestly with this process throughout, despite [PRIVATE]. The panel is reassured that your engagement indicated a full acceptance of responsibility for your actions.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the relevant training you have completed since the last review. The panel considered that you completed an 'Anti-bribery and Corruption: Bitesize Learning' course, dated 23 May 2023, as well as [PRIVATE].

The panel also considered the testimonial from a senior registered nurse, dated 22 December 2023, on your insight and your reflective practices:

*'... She has actively participated in reflective practices, acknowledging the impact of her past actions on colleagues, the NHS, and patient care. Her genuine remorse and insights into the consequences of her actions speak volumes about her evolving understanding of professional ethics and accountability.'*

*'[The Employer] recognises Emma's ongoing efforts to uphold the highest standards of professionalism. She has consistently shown integrity and a willingness to learn from her mistakes...'*

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel determined that your improved insight and acceptance of responsibility has rendered any risk of repetition negligible.

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. For the reasons given above, this panel determined that, in this case, a finding of continuing impairment on public interest grounds is not required.

For these reasons, the panel finds that, although your fitness to practise was impaired at the time of the incidents, given all of the above, your fitness to practise is not currently impaired. The panel considered that the public interest has been satisfied by you completing [PRIVATE] and the periods of suspension from the register which you have served. The panel determined to allow the suspension order to lapse upon its expiry and no further order is necessary beyond that.

In accordance with Article 30(1), the substantive suspension order will lapse upon expiry, namely the end of 7 February 2024.

This will be confirmed to you in writing.

That concludes this determination.