

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

**Substantive Order Review Hearing  
Wednesday, 12 June 2024**

Virtual Hearing

**Name of Registrant:** Mary Frances Jamieson

**NMC PIN** 99C0143S

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 13 September 2010

**Relevant Location:** North Lanarkshire

**Type of case:** Misconduct

**Panel members:** Louise Guss (Chair, Lay member)  
Christine Wint (Registrant member)  
Oluremi Alabi (Lay member)

**Legal Assessor:** Fiona Barnett

**Hearings Coordinator:** Audrey Chikosha

**Nursing and Midwifery Council:** Represented by Ben Edwards, Case Presenter

**Mrs Jamieson:** Not Present and not represented at the hearing.

**Order being reviewed:** Suspension order (4 months)

**Fitness to practise:** Impaired

**Outcome:** **Suspension order (6 months) to come into effect at the end of 21 July 2024 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 Jamieson was not in attendance and that she was not represented. The Notice of Hearing had been sent to Mrs Jamieson's registered email address by secure email on 14 May 2024.

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

The panel accepted the advice of the legal assessor.

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

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

Mr Edwards referred the panel to an email from the NMC to Mrs Jamieson dated 21 May 2024 inquiring about her attendance at today's hearing. He submitted that there had been no engagement at all by Mrs Jamieson with the NMC in relation to these proceedings and, she has therefore effectively voluntarily absented herself. Mr Edwards also submitted that there has not been an application to adjourn today's hearing from Mrs Jamieson, and

further submitted that there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel heard and accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Jamieson. In reaching this decision, the panel has considered the submissions of Mr Edwards, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Jamieson.
- Mrs Jamieson has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing.
- 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 Jamieson.

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

The panel decided to extend the current suspension order for an additional period of 6 months.

This order will come into effect at the end of 21 July 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 4 months by a Fitness to Practise Committee on 22 February 2024.

The current order is due to expire at the end of 21 July 2024.

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

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

*'That you, a registered nurse:*

*1. In respect of Patient A:*

*b. Between 25 February 2020 and 26 February 2020 recorded on Patient A's Pressure Care Chart Colleague B's initials to indicate that Colleague B had been present during a Pressure Care Check when she had not.*

*5. Your conduct at Charge 1(b) was dishonest in that you deliberately recorded on Patient A's Pressure Area Care Chart Colleague B's initials to indicate that Colleague B had been present during a Pressure Care Check when you knew Colleague B had not been present.*

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

The original panel determined the following with regard to impairment:

*'The panel reminded itself that it had not found proved any allegations that Mrs Jamieson had provided substandard care, or put patients at unwarranted risk of harm. The panel therefore found that limb a of the Grant test is not engaged.*

*Nevertheless, the panel found that Mrs Jamieson had breached two provisions of the Code and was satisfied that her misconduct breached fundamental tenets of the nursing profession and brought the profession into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find Mrs Jamieson's fitness to practise to be impaired in light of its findings. The panel concluded that limbs b, c and d of the Grant test are engaged.*

*Aside from the evidence in Mrs Jamieson's local admissions, the panel did not have any documentation or other evidence before it addressing Mrs Jamieson's insight on the importance of honesty as a fundamental tenet of the nursing profession and of the impact her actions could have had on her patients, colleagues, the nursing profession and the wider public as a whole. Therefore, the panel was of the view that Mrs Jamieson had not demonstrated sufficient insight into her misconduct. The panel could not be satisfied, in the absence of any other evidence, testimonials or references that Mrs Jamieson understands and appreciates the seriousness of her conduct and the impact on public confidence in the nursing profession.*

*The panel noted that in the local investigation, Mrs Jamieson had apologised for her conduct, stating that she understood that her conduct was wrong. However, she sought to justify herself by alleging that other staff also do this in the unit. Mrs Jamieson has not provided evidence that she has strengthened her own practice. It was of the view that this demonstrated that Mrs Jamieson lacks sufficient insight into her conduct.*

*In considering whether Mrs Jamieson had remediated her nursing practice, the panel noted that it did not have any relevant information before it. It bore in mind that dishonesty is often more difficult to remediate than clinical concerns.*

*The panel has not seen evidence to demonstrate that Mrs Jamieson understands the potential and actual implications of her actions or that she has taken steps to strengthen her practice or remediate her dishonesty. In the absence of any evidence to the contrary, the panel considered that, although low, there remains a risk of repetition of Mrs Jamieson's dishonest record keeping. Therefore the panel decided that a finding of current impairment is necessary on the grounds of public interest.*

*The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public*

*and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. In light of Mrs Jamieson's past misconduct and the lack of evidence of insight and remediation from Mrs Jamieson, the panel considered that public confidence in the nursing profession would be undermined if a finding of current impairment was not made.*

*Having regard to all of the above, the panel was satisfied that Mrs Jamieson's fitness to practise is currently impaired.'*

The original panel determined the following with regard to sanction:

*'Having found Mrs Jamieson's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.*

*The panel took into account the following aggravating features:*

- *Mrs Jamieson lacks insight into the seriousness of her misconduct;*
- *Misconduct which implicated Colleague B, when she was not involved.*

*The panel also took into account the following mitigating features:*

- *A single incident;*
- *No patient harm;*
- *Mrs Jamieson apologised to her employer at an early stage;*
- *No previous regulatory matters in an otherwise unblemished career;*
- *No personal gain.*

*The panel had regard to the passages in SG dealing with dishonesty which states:*

*'Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:*

- deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients;*
- misuse of power;*
- vulnerable victims;*
- personal financial gain from a breach of trust;*
- direct risk to patients;*
- premeditated, systematic or longstanding deception.'*

*The panel found that Mrs Jameson's misconduct did not fall into any of those categories. The panel also noted that the SG provided that, 'Dishonest conduct will generally be less serious in cases' of:*

- one-off incidents;*
- opportunistic or spontaneous conduct;*
- no direct personal gain;*
- incidents in private life of nurse, midwife or nursing associate.*

*The panel was satisfied that Mrs Jamieson's misconduct was a one off incident, and neither resulted in, nor had the possibility of resulting in personal gain to her. In those circumstances, the panel decided that, although dishonesty is always a serious matter, Mrs Jamieson's misconduct should be considered at the lower end of such misconduct.*

*The panel first considered whether to take no action but concluded that this would be inappropriate in view of the dishonesty involved in this case. The*

*panel decided that it would be neither proportionate nor would it mark the public interest to take no further action.*

*It then considered the imposition of a caution order but again determined that, due to the dishonesty involved in this case this order would not sufficiently mark the public interest. 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.’ In light of the, albeit low risk of repeating the misconduct, the panel decided that it would be neither proportionate nor in the public interest to impose a caution order.*

*The panel next considered whether placing conditions of practice on Mrs Jamieson’s 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. It noted that there were identifiable areas of Mrs Jamieson’s record keeping practice in need of assessment and/or retraining. However, as Mrs Jamieson has not engaged in the proceedings, the panel had no evidence before it and could not be assured that she had the potential and willingness to respond positively to any conditions. Therefore, the panel concluded that the placing of conditions on Mrs Jamieson’s registration would not be the appropriate order.*

*In the absence of Mrs Jamieson’s engagement, the panel went on to consider whether a suspension order would be an appropriate sanction. The panel had regard to NMC’s guidance on ‘Suspension order’ (Reference: SAN-d3) which outlines the circumstances where a suspension order may be appropriate. The SG states that suspension order may be appropriate where the following factors are apparent:*

- *A single instance of misconduct but where a lesser sanction is not sufficient;*



- *No evidence of harmful deep-seated personality or attitudinal problems.*

*The panel also had regard to the NMC's guidance on 'Considering sanctions for serious cases' (Reference: SAN-2), in particular on dishonesty. It was of the view that dishonesty will always be serious and a nurse who has acted dishonestly will always be at risk of being removed from the register. However, it also noted that not all dishonesty is equally serious. The panel determined, in the circumstances of the case, that Mrs Jamieson's dishonest conduct was at the lower end of seriousness as this was a one off incident involving one false entry of a colleague's initials in Patient A's Pressure Area Care Chart. It noted that there was no evidence that similar actions happened before the night shift of 24 February 2020 or since. The panel also noted that there was no harm to Patient A, nor was there a cover up of anything going wrong with Patient A's care because of this false entry and there had been no personal gain for Mrs Jamieson. There was no evidence of harmful deep-seated personality or attitudinal problems. The panel found that Mrs Jamieson was currently impaired on public interest grounds only.*

*In making this decision, the panel carefully considered the submissions of Mr Hugh-Jones in relation to the sanction that the NMC was seeking in this case. It considered whether a striking-off order would be proportionate. The panel reminded itself that it has already found that Mrs Jamieson's misconduct did not fall into any of the categories where the SG indicates that striking off is most likely. Mrs Jamieson's misconduct engages two of the matters indicating that the dishonesty is less serious. Therefore, the panel is satisfied that a striking off order is not consistent with the guidance given in the SG as set out above.*

*Taking account of all the information before it, and of the mitigation factors, the panel was of the view that a temporary removal would mark the public interest and allow Mrs Jamieson to take steps to strengthen her practice and to demonstrate what she had learned and provide evidence that this*

*misconduct will not be repeated. It, therefore, concluded that a striking-off order would be disproportionate in light of the circumstances. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Jamieson's case to impose a striking-off order.*

*The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.*

*Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.*

*The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.*

*The panel noted the hardship such an order may cause Mrs Jamieson, however this is outweighed by the public interest in this case.*

*The panel determined that a suspension order for a period of 4 months was appropriate in this case to mark the seriousness of the misconduct and to allow Mrs Jamieson the opportunity to take steps to strengthen her practice, to develop and provide evidence that she has insight into her misconduct and the impact of her misconduct on her colleagues, patients and the public's confidence in the nursing profession.'*

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

The panel has considered carefully whether Mrs Jamieson's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC states in its guidance reference DMA-1 dated 27 March 2023 that 'the question that will help decide whether a professional's fitness to practise is impaired is: "*can the nurse, midwife or nursing associate 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 Edwards on behalf of the NMC. He referred the panel to the decision of the previous panel dated 22 February 2024 which reads:

*‘Any future panel reviewing this case would be assisted by :*

- *Your attendance at any review of this order;*
- *A written reflective piece showing your understanding and insight into the impact of your misconduct on patients, colleagues and the nursing profession;*
- *Evidence of any steps you have taken to strengthen your practice to ensure that the misconduct would not repeated;*
- *Relevant training addressing the concerns raised in relation to record keeping and honesty;*
- *Any relevant up to date testimonials from any work undertaken, paid or voluntary; and*
- *Evidence of where you demonstrated good record keeping practice and honest behaviour. ‘*

Mr Edwards submitted that Mrs Jamieson has not engaged with any of the above recommendations. He submitted that today’s panel has not had any evidence that Mrs Jamieson has taken any steps to remediate or strengthen her practice. Mr Edwards submitted that the previous panel had determined that Mrs Jamieson’s dishonesty was on the lower end of the spectrum and thus remediable. He submitted that today, 4 months after the initial substantive hearing, Mrs Jamieson has taken no steps to do so.

Mr Edwards submitted that since the original hearing there has been no material change in the circumstances and thus Mrs Jamieson’s practice remains impaired. He submitted that

there is no evidence to suggest that there has been a decrease in the risk of repetition nor to illustrate that she now understands the impact of her actions.

Mr Edwards invited the panel to consider whether extending the current suspension order would sufficiently protect the public or meet the public interest. He submitted that there is little benefit in conducting multiple reviews if there is no evidence of remediation, change or engagement from a registrant. Mr Edwards therefore submitted that extending the suspension order would not be the appropriate sanction in this case.

Mr Edwards submitted that given the lack of engagement and lack of information before it today, the panel is in the same position as the original panel in February 2024. He submitted that at that time in the original hearing, the panel had considered a striking-off order disproportionate in light of the circumstances. However, Mr Edwards submitted that today, a strike-off order may be an appropriate action to take. He submitted that Mrs Jamieson has been given an opportunity to remediate her failings and to strengthen her practice, but she has failed to take that opportunity and provided no reasons as to why. Mr Edwards therefore submitted that a strike-off order is no longer disproportionate in these circumstances.

Mr Edwards referred the panel to the NMC Guidance SAN-3d and SAN-2 in relation to suspension orders and sanctions for serious cases. He submitted that the panel must consider whether it finds that Mrs Jamieson's actions are fundamentally incompatible with remaining on the register. He invited the panel to consider that given the lack of engagement, lack of efforts made to remediate and lack of information before the panel, it can be satisfied that Mrs Jamieson's actions are fundamentally incompatible with remaining on the register.

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 Mrs Jamieson's fitness to practise remains impaired. The panel noted that the original panel found that Mrs Jamieson had insufficient insight. At this hearing the panel heard no new information to undermine this decision. The panel had no evidence from Mrs Jamieson to support that she has developed her insight since the last review. Therefore, the panel determined that Mrs Jamieson's insight remains insufficient to address the concerns identified.

In its consideration of whether Mrs Jamieson has taken steps to strengthen her practice, the panel had no evidence before it to suggest that she has undertaken any further training or further professional development.

The original panel determined that Mrs Jamieson was liable to repeat matters of the kind found proved. Today's panel has heard no new information to undermine this decision. The panel noted Mrs Jamieson's lack of engagement with these proceedings and that she has taken no steps to action the recommendations provided by the previous panel. In the absence of any insight or evidence of retraining, the panel was of the view that Mrs Jamieson remains liable to repeat matters of the kind proved.

The panel therefore decided that a finding of continuing impairment is necessary on the same ground as the previous panel, namely meeting the public interest.

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

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

Having found Mrs Jamieson'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 as the charges are serious and relate to dishonesty. 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 nature of the charges, and the public interest issues identified, an order that does not restrict Mrs Jamieson'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.'* Given the finding of dishonesty in this case, a caution order would be inappropriate and insufficient to uphold the public interest. The panel therefore decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Mrs Jamieson's 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 the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Jamieson's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Jamieson further time to fully reflect on her previous dishonesty and misconduct. It considered that Mrs Jamieson needs to gain a full understanding of how her actions may have impacted patients and colleagues as well as the impact of her dishonesty on the nursing profession as a whole. The panel noted that Mrs Jamieson was given a list of six recommendations by the substantive panel on 22 February 2024 of what may assist a reviewing panel in considering her case. The panel had no information before it today that Mrs Jamieson has completed any of these suggestions.

The panel also noted that Mrs Jamieson's NMC registration expired on 31 October 2021 and that she only remains on the register as a result of these proceedings. The panel was

concerned there is not much benefit in conducting repeated reviews where a registrant does not engage with the proceedings or wish to continue nursing. It noted that Mrs Jamieson's non-attendance at today's hearing was the second time she has not attended her scheduled hearing, and that she has not engaged with these proceedings since the beginning stages of the substantive hearing.

However, the panel was of the view that 4 months is a short period of time. It noted that while it may have been possible to address the concerns identified and demonstrate a strengthening of practice in this period, the panel had received no evidence of this. Nonetheless, in adhering to the value of fairness to all, the panel determined that it would be fair, proportionate and appropriate at this time, to afford Mrs Jamieson a further opportunity to show that her fitness to practice is no longer impaired.

The panel concluded that extending the suspension order for 6 months, amounting to a cumulative 10 months of suspension, would be the appropriate and proportionate response, would uphold the public interest, and afford Mrs Jamieson adequate time to further develop her insight and take steps to strengthen her practice.

Accordingly, the panel determined to impose a suspension order for the period of 6 months would provide Mrs Jamieson with an opportunity to engage with the NMC and to provide evidence of compliance with the recommendations put forward by the previous panel which today's panel reiterated. It considered this to be the most appropriate and proportionate sanction available at this time.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 21 July 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mrs Jamieson's attendance at any review of this order.
- A written reflective piece showing Mrs Jamieson's understanding and insight into the impact of her misconduct on patients, colleagues and the nursing profession.
- Evidence of any steps Mrs Jamieson has taken to strengthen her practice to ensure that the misconduct would not be repeated.
- Relevant training addressing the concerns raised in relation to record keeping and honesty.
- Any relevant up to date testimonials from any work undertaken, paid or voluntary.
- Evidence of where Mrs Jamieson has demonstrated good record keeping practice and honest behaviour.

This will be confirmed to Mrs Jamieson in writing.

That concludes this determination.