

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

**Substantive Order Review Meeting
Monday, 17 June 2024**

Virtual Meeting

Name of Registrant: Gareth Llewellyn

NMC PIN 0010249W

Part(s) of the register: Registered nurse – Sub part 1

Relevant Location: Cleveland

Type of case: Misconduct

Panel members: Avril O'Meara (Chair, lay member)
Jim Blair (Registrant member)
Alison James (Lay member)

Legal Assessor: Attracta Wilson

Hearings Coordinator: Jessie Miller

Order being reviewed: Suspension order (12 months) to come into effect at the end of 2 August 2023 in accordance with Article 30 (1)

Fitness to practise: Impaired

Outcome: Striking-Off order to come into effect on 2 August 2024 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mr Llewellyn's registered email address by secure email on 13 May 2024.

The panel took into account that the Notice of Meeting provided details of the review that the review meeting would be held no sooner than 17 June 2024 and invited Mr Llewellyn to provide any written evidence seven days before this date.

The panel also had view of an email sent to from Mr Llewellyn to the Nursing and Midwifery Council (NMC) on 15 January, 2024 in response to a letter from the NMC indicating that it was considering conducting a review of the suspension order by way of a meeting instead of a hearing, in which he stated:

'...I write to re-iterate that I have NO intention of practicing as nurse. Indeed, I do not wish to work in Health perse [sic]. I write also to request that an NMC meeting take place...'

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Llewellyn has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules (the Rules).

Decision and reasons on review of the current order

The panel decided to impose a striking off order. This order will come into effect at the end of 2 August, 2024 in accordance with Article 30(1). of the Nursing and Midwifery Order 2001 (the Order).

This is the eighth review of a conditions of practice order, originally imposed by a panel of the Conduct and Competence Committee, on 28 April 2016 for a period of 12 months. On 30 May 2017 the conditions of practice order was varied and extended for 12 months. On 30 April 2018 a panel of the Fitness to Practise Committee extended the order for a further

12 months, as did the reviewing panel on 10 May 2019. At the fourth review a varied conditions of practice order was imposed for eight months. At the fifth review on 22 January 2021, a conditions of practice order was imposed for a further 12 months. The conditions of practice order was extended for 18 months on 23 December 2021. On 27 July 2023, a 12 month suspension order was imposed to come into effect on 2 August 2023.

The current order is due to expire at the end of 2 August 2024.

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

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

‘That you whilst employed by the Mid Yorkshire NHS Trust as a Virtual Ward Community Matron:

1. In relation to an unknown patient:

1.1. On or around 4 October 2012 asked Community Matron (Mr 2) to prescribe Victoza when it was not clinically indicated.

1.2. Between 17 October 2012 and 15 December 2012 inappropriately increased their afternoon insulin dose instead of the morning insulin dose.

2. In relation to Patient A:

2.1. ...

2.2. In November 2012 inappropriately increased Patient A’s afternoon and/or evening insulin dose instead of the morning insulin dose.

3. In or around November 2012, failed to escalate Patient B’s altered bowel habits and/or low haemoglobin levels and/or irregular pulse to a GP.

4. In November 2012, prescribed erythromycin for Patient C’s chest infection when clarithromycin was clinically indicated.

5. *In or around December 2012 prescribed Mirtazapine to Person A inappropriately in that:*

5.1. *Person A was not on your caseload*

5.2. *Person A should have been referred to a GP and/or alcohol team*

5.3. *A prescription for Mirtazapine was not clinically indicated*

5.4. *You were not competent to prescribe for mental health conditions.'*

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

'The panel has considered carefully whether Mr Llewellyn'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...

...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 Llewellyn's fitness to practise remains impaired.

The panel noted that it had no new information before it from Mr Llewellyn which mitigates the risk of repetition of the conducts that led to his failings. The panel noted that no steps have been taken by Mr Llewellyn to demonstrate any further remediation or insight since the date of the substantive hearing. The panel noted that there has been no compliance from Mr Llewellyn with the previous panel's suggestions. The panel further noted that Mr Llewellyn is no longer working as a nurse and has asked to be removed from the register. The panel

therefore concluded that there continues to be a risk of harm to patients if Mr Llewellyn were to practise unrestricted and therefore finds impairment on the grounds of public protection.

In light of there being no new information before the panel, it was of the view that the ongoing risk to the public has not reduced since the last hearing. It concluded that Mr Llewellyn's fitness to practise remains impaired by reason of his failings and lack of insight. 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 protection grounds is required.

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 Llewellyn's fitness to practise remains impaired.'

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

'Having found Mr Llewellyn'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 Llewellyn'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 Llewellyn'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 the continuation of the current conditions of practice order. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind that Mr Llewellyn is not currently working as a registered nurse and that he no longer wishes to be on the register. The panel noted that Mr Llewellyn has previously had a conditions of practice order imposed for over 7 years and that he has not shown evidence of strengthened practise.

On this basis, the panel concluded that a conditions of practice order is no longer practicable. The panel concluded that no workable conditions of practice could be formulated in this case.

The panel next considered the imposition of a suspension order. The panel considered that a suspension order was sufficient to protect the public and will satisfy the public interest in this case. Accordingly, the

panel determined to impose a suspension order for the period of 12 months would provide registrant with an opportunity to re-engage with the NMC, to develop his insight, and to consider his future within the nursing profession. It considered this to be the most appropriate and proportionate sanction available.

The panel considered the imposition of a striking off order, yet in light of the narrow area of concern, the previous evidence of good nursing practice in other areas, there being no evidence of conduct which is fundamentally incompatible with remaining on the register and the absence of any attitudinal problems, the panel considered this remains disproportionate at this time.

This suspension order will take effect upon the expiry of the current conditions of practice order, namely at the end of 2 August 2023 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:

- A written piece clearly setting out Mr Llewellyn's intentions regarding his work in the nursing profession in the future, and, where appropriate, a clear plan for his future away from nursing, should that continue to be his intention.*
- Should Mr Llewellyn have decided to remain in the nursing profession, specific written evidence of progress he has made in relation to securing opportunities to develop his prescribing knowledge and skills, ideally copies of correspondence regarding work opportunities.*
- Certificates or training relating to his understanding of prescribing practice.*
- Testimonials from colleagues in employment outside of the nursing profession.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mr Llewellyn'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, which contained the email from Mr Llewellyn dated 15 January 2024.

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 Llewellyn's fitness to practise remains impaired.

This panel noted that the last reviewing panel found that Mr Llewellyn continued to lack insight into the concerns highlighted in the charges found proved. This panel noted that this case has been ongoing since 2016 and whilst Mr Llewellyn demonstrated some remediation and engagement, particularly in the early stages of the case, he has been unable to fully remediate the concerns.

The last reviewing panel determined that Mr Llewellyn was liable to repeat matters of the kind found proved. Today's panel has received no new information to undermine this position and as a result, the panel determined 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, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr Llewellyn's fitness to practise remains impaired on both public protection and the wider public interest grounds.

Decision and reasons on sanction

Having found Mr Llewellyn'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 Llewellyn's practice would not be appropriate in the circumstances.

The panel next considered whether a conditions of practice order on Mr Llewellyn's registration would be a proportionate and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind that several condition of practice orders have already been imposed since 2016, and Mr Llewellyn has not remediated his practice. The panel also took into account Mr Llewellyn's email of 15 January 2024 where he stated that he has left nursing practice and no longer wishes to work in health. It concluded that given Mr Llewellyn is no longer working as a nurse and has clearly stated his intention that he does not want to return to nursing practice, a conditions of practice order would not be workable in the circumstances.

The panel next carefully considered imposing a further suspension order. The panel noted that Mr Llewellyn was given a 12 month suspension order by the previous panel to allow him a further opportunity to demonstrate remediation and insight into his misconduct. The panel determined that Mr Llewellyn has not demonstrated these things and instead, clearly stated that he has left the nursing profession, does not wish to return to it and has successfully registered with a recruitment agency. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel had sight of the email received by the NMC from Mr Llewellyn, dated 15 January, 2024 in which he stated:

'...However, as per your 2nd of January emailed request, I write to re-iterate that I have NO intention of practicing as nurse...

... This last experience in the nursing workplace left me greatly affected. It proved too much for me - I realised I could no longer tolerate a line of work which had been wholly unsatisfying for me for over a decade. And even traumatic. I reflect again, that if I had had no children to support, I would have been long-gone from nursing years ago.

Importantly for me, I concluded last year that I could not look at myself in the mirror with any degree of self-respect if I remained working as a nurse...

... Since June of 2023, I have attempted to source employment with the skill-set that I believe I have. I have applied for numerous roles and jobs outside of nursing and healthcare. I have managed to find a recruitment employment agency who has been willing to try to source me regular supply teaching work. I have asked Aquinas (as my sole employer) to write to you/the NMC, and I trust they will be true to their word, having agreed....'

The panel determined that it was necessary on the grounds of public protection and in the wider public interest to remove Mr Llewellyn's name from the register permanently. It

considered that Mr Llewellyn has made a very clear and unambiguous statement that he does not wish to work as a registered nurse, has left the nursing profession and has successfully registered with a recruitment agency. Given this matter has been ongoing since 2016, the panel is satisfied that the public interest is not served by imposing another suspension order with a review where Mr Llewellyn has decided to leave the nursing profession permanently. The panel concluded that in the circumstances, the proportionate and appropriate sanction that would adequately protect the public and serve the public interest, was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 2 August, 2024 in accordance with Article 30(1).

That concludes this determination.