

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

**Substantive Order Review Meeting  
Monday, 20 May 2024**

Virtual Meeting

**Name of Registrant:** Luca Gentile

**NMC PIN** 16A0470C

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 28 January 2016

**Relevant Location:** Medway

**Type of case:** Misconduct

**Panel members:** Dr Katharine Martyn (Chair, Registrant Member)  
Michael Duque (Registrant Member)  
Sue Davie (Lay Member)

**Legal Assessor:** John Donnelly

**Hearings Coordinator:** Angela Nkansa-Dwamena

**Order being reviewed:** Suspension order (9 months)

**Fitness to practise:** Impaired

**Outcome:** **Suspension order (9 months) to come into effect on 3 July 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 Gentile's registered email address by secure email on 7 March 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 20 May 2024 and inviting Mr Gentile to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Mr Gentile 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 2004 (as amended) (the Rules).

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

The panel decided to extend the suspension order for a period of nine months. This order will come into effect at the end of 3 July 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive suspension order originally imposed for a period of nine months by a Fitness to Practise Committee panel on 21 September 2023.

The current order is due to expire at the end of 3 July 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, a registered nurse:*

1. *On an unknown date in or around October 2019:*
  - a. *Failed to challenge Colleague A when they were taking a video recording and/or photo/s of you whilst using a hoist to lift Patient A;*
  - b. *Failed to respond adequately or at all to Patient A when they shouted 'ow' on one or more occasions;*
  - c. *...*
  - d. *Remarked or joked that Patient A sounded "like an alarm" or words to that effect.*
  
2. *Through your actions at any of charges 1a-1d above failed to preserve Patient A's dignity.*

*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 finds that a patient was put at risk and was caused pain and/or distress as a result of Mr Gentile's misconduct. Mr Gentile's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.*

*Regarding insight, the panel considered Mr Gentile's reflective statement.*

*In this Mr Gentile states:*

*'I have thought long and hard about my omissions on that date. With the benefit of hindsight I should have certainly challenged the CSW as soon as I noticed she was using her phone on duty. I should have ensured that any video she took was immediately deleted. I deeply regret my omission that day and wish to apologise to the patient and his family, also the Trust. I will try my best to ensure that such a situation never arises again. Should I ever*

*face such a situation in future I would definitely challenge the other member of staff right away and report the matter to the nurse in charge.'*

He also states:

*'I did not mean to disrespect anyone. I am a man of good character and I feel deeply sorry for what has happened... Every time I think about that video, I feel a heavy stone on my stomach. I thought if relatives saw that video, they would feel so disappointed. I feel sorry deepest is my heart toward the patient and my employer because they trusted me and it is like they have lost the trust, and it will never be as before now.*

*Trust take years to build, seconds to break and exceptionally long time to repair. I would do all my best to repair it if I would have another chance. I deeply regret my omission that day and wish to apologise to the patient, his family and the employer. I promise that I will do my best to ensure that such a situation never arises again.'*

*The panel found that Mr Gentile made admissions early in the local investigation. Mr Gentile has demonstrated some understanding that what he did was wrong and how this impacted negatively on the patient's family and his employer. The panel noted that Mr Gentile has apologised for his misconduct and has explained how he/ would handle the situation differently in the future. However, the panel was of the view that Mr Gentile did not reflect on how his actions impacted on the patient and reputation of the nursing profession. The panel was of the view that Mr Gentile's insight was still developing.*

*The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Gentile has taken steps to strengthen his practice. The panel took into account for example: the additional, relevant training Mr Gentile has undertaken which included training on dementia; pain management; dealing with stress, anxiety, depression and violence in the workplace; deprivation of liberty safeguards; caring for the elderly; and privacy and dignity.*

*However, the panel concluded that there is a risk of repetition based on Mr Gentile's developing insight. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.*

*The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in a case where the nurse failed to preserve a patient's dignity and therefore also finds Mr Gentile's fitness to practise impaired on the grounds of public interest.*

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

The original panel determined the following with regard to sanction:

*'The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of 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;*
- No evidence of repetition of behaviour since the incident; and*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

*The panel was satisfied that this was a single episode of misconduct which does not demonstrate a harmful deep seated personality or attitudinal issue. The panel had no evidence that Mr Gentile has since repeated this behaviour. Finally, Mr Gentile has demonstrated developing insight into his misconduct.*

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

*It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Gentile's case to impose a striking-off order.*

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

*The panel noted the hardship such an order will inevitably cause Mr Gentile. However this is outweighed by the public interest in this case.*

*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 determined that a suspension order for a period of nine months was appropriate in this case to mark the seriousness of the misconduct.'*

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

The panel considered carefully whether Mr Gentile'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 ability to practise kindly, safely and professionally. In considering this case, the panel carried out a comprehensive review of the order in light of the current

circumstances. Whilst it noted the decision of the last panel, this panel exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle.

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 Gentile's fitness to practise remains impaired.

The panel noted that since the last hearing in September 2023, there had been no engagement or no new information put forward by Mr Gentile. Further, Mr Gentile had not undertaken any of the recommendations of the previous panel, namely:

- *'An updated reflective piece in a recognised format, such as Gibbs' Reflective Cycle, focussing on the impact of the incident on the patient himself and the reputation of the profession as a whole;*
- *Evidence of further training undertaken, these can be online courses suitable for UK nurses concerning Safeguarding, Equality and Diversity, Deprivation of Liberty, acting in the best interest of patients, in particular, dealing with elderly and vulnerable patients;*
- *An up to date reference from Mr Gentile's employer. This should preferably be a senior nurse; and*
- *Mr Gentile's continued participation.'*

The panel therefore had no new information before it, to conclude whether Mr Gentile had developed any further insight into his actions or to demonstrate that he can practise kindly, safely and professionally. In respect of Mr Gentile's misconduct, the panel considered that there had been no material change of circumstances since the initial substantive meeting. The lack of engagement with the NMC in the past nine months gave the panel no indication that Mr Gentile had developed any further insight into his failings and the charges found proved. In the absence of any information indicating insight, strengthened

practice or remorse for his actions, the panel concluded that Mr Gentile's circumstances had not changed.

The panel acknowledged that Mr Gentile had returned to Italy in 2021 and had engaged remotely until the conclusion of the substantive meeting in September 2023. The panel also noted that despite being subject to a substantive suspension order, in an email response to the NMC email dated 6 December 2023, Mr Gentile stated:

*'I'm not in UK anymore [sic] and I work as a nurse in my country.'*

In all the circumstances, the panel considered that there remains a risk of repetition, therefore Mr Gentile remains liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future.

The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection, by reason of Mr Gentile's misconduct.

The panel bore 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 Gentile's fitness to practise remains impaired.

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

Having found Mr Gentile 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 Gentile'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 Gentile'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 a conditions of practice on Mr Gentile'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 meeting 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 Mr Gentile's misconduct.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mr Gentile further time to fully reflect on his previous failings. The panel concluded that a further nine-month suspension order would be the appropriate and proportionate response and would afford Mr Gentile adequate time to further develop his insight, take steps to strengthen his practice and re-engage with the NMC. The panel acknowledged that Mr Gentile had previously engaged with the NMC whilst he was in Italy and there was therefore no reason for him to not be able to engage whilst he is outside of the UK.

The panel seriously considered a striking off order however, recognising Mr Gentile's engagement up to September 2023, the panel felt that this would be disproportionate at

this time. However, the panel noted that failing to re-engage with the regulatory proceedings may result in a future panel considering this option.

The panel therefore determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of nine months to provide Mr Gentile with an opportunity to re-engage with the NMC and demonstrate full insight and strengthened practice. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 3 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:

- Mr Gentile's re-engagement and participation with the NMC regulatory proceedings;
- An updated reflective piece in a recognised format, such as Gibbs' Reflective Cycle, focussing on the impact of the incident on the patient himself, aspects of the Code breached and the impact on the reputation of the nursing profession as a whole;
- Evidence of further training undertaken, these can be online courses suitable for UK nurses concerning Safeguarding, Equality and Diversity, Deprivation of Liberty, acting in the best interest of patients, in particular, dealing with elderly and vulnerable patients; and
- An up-to-date reference from Mr Gentile's employer. This should preferably be a senior nurse.

The panel also recommends that the NMC contact the Italian regulator for nurses as Mr Gentile has informed the NMC that he is currently working as a nurse in Italy despite being subject to a substantive suspension order.

This will be confirmed to Mr Gentile in writing.

That concludes this determination.