

Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Order Review Meeting

Thursday, 30 May 2024 – Friday 31, May 2024

Virtual Meeting

Name of Registrant:	June Grant
NMC PIN	99B0451E
Part(s) of the register:	Registered Nurse – Adult Effective – 3 February 2002
Relevant Location:	West Midlands
Type of case:	Misconduct
Panel members:	Richard Weydert-Jacquard (Chair, Registrant member) Jane Dalton (Lay member) Louise Poley (Registrant member)
Legal Assessor:	Sean Hammond
Hearings Coordinator:	Amanda Ansah
Order being reviewed:	Conditions of practice order (9 months)
Fitness to practise:	Impaired
Outcome:	Conditions of practice order (9 months) to come into effect at the end of 9 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 Ms Grant's registered email address by secure email on 8 April 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 27 May 2024 and inviting Ms Grant to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Grant 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 application for meeting to be held in private

At the outset of the meeting, the legal assessor reminded the panel that it should consider the meeting be held partly in private in accordance with Rule 19(3) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules) [PRIVATE].

Rule 19 states:

- '19.—** (1) *Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.*
- (2) ...
- (3) *Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—*
- (a) *having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and*

- (b) *having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.*

(4)'

Having heard that [PRIVATE], the panel determined that those parts of its written determination would be marked private. The panel was satisfied that this would protect Ms Grant's right to privacy and confidentiality, which outweighs the public interest in those matters being recorded in a public decision. It determined that all remaining matters of the meeting could be made public.

Decision and reasons on review of the current order

The panel decided to impose a further conditions of practice order. This order will come into effect at the end of 9 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 conditions of practice order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 8 September 2023.

The current order is due to expire at the end of 9 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:

- '1. *Between November 2019 and April 2020 failed to ensure the safe management of a care home in that you:*
 - a. ...
 - b. *failed to keep accurate records of flash meetings.*

- c. *failed to ensure staff minutes were documented between January and March 2020*
 - d. ...
 - e. ...
 - f. ...
 - g. ...
 - i. ...
 - j. *failed to ensure that handover documents provided detailed information on patients' clinical needs*
 - k. *failed to ensure wound care plans were being used and/or were up to date*
 - l. *failed to ensure patients MAR/TMAR charts were up to date*
 - m. ...
 - n. *did not implement condition specific care plans for at risk patients*
2. *Between April and June 2020, failed to appropriately manage and/or respond to one or more medication errors in the Home, in that you:*
- a. *did not carry out an adequate investigation*
 - b. *did not maintain accurate records of the medication errors*
 - c. *failed to implement measures to prevent repetition of the medication errors*
3. *Failed to carry out regular supervision with staff and/or failed to document that supervisions took place did not carry out regular supervision with staff and/or failed to document those supervisions took place*
4. *Failed to carry out a full induction of Colleague A*
5. ...
6. *On 18/19 March 2020, failed to carry out a safe admission of Service User A.*

7. *Failed to carry out follow up care to Service User A and/or in the alternative ensure adequate care was carried out to Service User A in that you:*

- a. *failed to adequately monitor their weight*
- b. *failed to assess them for swallowing difficulties on a monthly basis*
- c. *failed to carry out monthly pain monitoring and /or record that monthly pain monitoring had been carried out*
- d. *did not take any action in relation to their MRSA diagnosis*
- e. *did not ensure appropriate levels of PPE were utilised in providing care to prevent cross-contamination*
- f. *failed to review their needs since their admission*
- g. *failed to provide care for a moisture lesion and skin tear on admission*

8. *Between November 2019 and April 2020, failed to make safeguarding notifications for one or more 'notifiable' incidents in the Home.*

9. *Failed to implement the Home's infection prevention and control procedures for Covid-19.*

10. ...

11. ...

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:

'Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...*

The panel considered that limbs a, b and c of Dame Janet Smith's test set out in the Fifth Report from Shipman were engaged by Ms Grant's past actions. The panel considered that Ms Grant's misconduct put vulnerable residents at serious risk of harm. The panel therefore considered that Ms Grant's failings in these respects brought the profession into disrepute. The panel was of the view that the provision of safe and effective care is a fundamental tenet of the profession, and Ms Grant breached such a tenet by her actions and omissions.

The panel went on to consider whether Ms Grant remained liable to place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel applied the test set out in the case of Cohen and assessed Ms Grant's levels of insight and remediation. The panel considered that the failings in this case were remediable.

The panel considered Ms Grant's evidence, including her reflections using the Gibbs model, training certificates, and a reference from her current employer dated 2 March 2021. The panel carefully considered the reflections and noted that Ms Grant's responses to the charges were at times misdirected and did not address the failings found proved. Additionally, the panel was of the view that Ms Grant attempted to shift blame onto others rather than taking full responsibility, indicating limited insight on her part.

Furthermore, the panel acknowledged that Ms Grant has been working as a bank nurse since 2021. However, there is no up to date evidence regarding her performance during this period or whether she has effectively addressed her failings. Consequently, the panel cannot be certain that she would not pose a potential risk to patients in the future, particularly in a managerial role.

The panel noted that although Ms Grant is apparently not currently in a managerial position, the charges found proved are still directly related to the responsibilities a nurse would typically have. These include maintaining updated care patient plans, ensuring thorough completion of handover documents, keeping wound care plans up to date, maintaining TMAR charts, and conducting service user admissions. The

panel noted that these are fundamental nursing duties, and that there is no evidence that Ms Grant has addressed the concerns.

The panel was disadvantaged due to the absence of up to date references and testimonials regarding Ms Grant's performance. The panel only had sight to a reference from March 2021, which is outdated and does not reflect her current performance as a nurse. As a result, the panel concluded that her insight is limited, and there is little evidence of remediation. The panel therefore determined that there remains a risk of repetition and concluded 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 are 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, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that members of the public would expect registered nurses to be able to provide safe and effective care for vulnerable residents. The panel determined that a finding of impairment was necessary on public interest grounds, in order to maintain confidence in the nursing profession and in the NMC as a regulator, and in order to declare and uphold proper standards of conduct and performance.

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

The original panel determined the following with regard to sanction:

'Having found Ms Grant's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. 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 Sanctions Guidance (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:

- *A pattern of misconduct over a significant period of time.*
- *Conduct which put patients at risk of suffering harm.*
- *Limited insight into failings.*

The panel also took into account the following mitigating features:

- *Some of the misconduct occurred during the course of the Covid-19 pandemic which was unprecedented.*
- *Ms Grant contracted Covid-19 herself and she was suffering with a bereavement.*
- *Ms Grant was working under the pressures of a demanding and prescriptive corporate structure during the Covid-19 pandemic.*
- *Misdirected support in place while Ms Grant was on annual leave [PRIVATE]*
- *For a period of six months, Ms Grant did not have the benefit of a deputy manager to support her. When she did have a deputy manager, that deputy manager was not fully inducted. Although the panel found the ultimate responsibility to induct the deputy manager lay on Ms Grant, there were other members of the managerial staff that were responsible for parts of that induction which had not been completed and therefore Ms Grant was disadvantaged by not having a fully inducted deputy manager.*
- *The panel considered the written evidence of Witness 5. In his evidence he conceded that Ms Grant herself did not have a full induction.*
- *The panel had some evidence that Ms Grant has been working as a bank nurse without further incident.*

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the misconduct. The panel decided that it would be neither proportionate nor in the public interest to take no further action, given the nature of the allegations and the extent of Ms Grant's failings. The panel therefore determined that taking no action was inappropriate in these circumstances.

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 Ms Grant'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 Ms Grant'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 placing conditions of practice on Ms Grant's registration would be a sufficient and appropriate in the circumstances. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence (which was not capable of being addressed);*
- No evidence to suggest that there was not a willingness to "respond positively to retraining";*
- ...;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel determined that there is no evidence of any deep-seated personality or attitudinal problems. However, the panel did identify areas within Ms Grant's practice that require supervision and retraining.

Although the panel determined issues relating to incompetence, it took into consideration the personal circumstances Ms Grant was subject to at the time. These included the added pressure caused by the Covid-19 pandemic, the unique culture of the home, and the nature of auditing while Ms Grant and the deputy manager were absent. Witness 4 provided oral evidence stating, "Covid did have a massive impact; patients deteriorated during that time due to a lack of equipment." The panel also noted that Ms Grant was not directly involved in hands-on care and that the issues arose from specific events related to governance and Covid-19, resulting in errors in documentation. It is likely that under normal circumstances, Ms Grant may not have made these errors. The panel therefore concluded that these issues can be supported through appropriate supervision and training.

The panel found no evidence to suggest that Ms Grant would not be receptive to retraining. It also determined that patients would not be directly or indirectly put in danger as a result of the conditions. Furthermore, the panel was satisfied that conditions would safeguard patients throughout their duration and could be effectively monitored. As a result, the panel concluded that it is feasible to establish suitable and practical conditions to address the shortcomings identified in this case.

The panel had regard to the fact that these incidents happened a considerable time ago and that, other than these incidents, Ms Grant had an unblemished career for a number of years as a nurse. The panel was of the view that it was in the public interest that, with appropriate safeguards, Ms Grant should be able to return to practise as a nurse. Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of Ms Grant's case. The panel has already identified that the misconduct is not fundamentally incompatible with Ms Grant remaining on the register and that conditions would address the misconduct found in this case.

Having regard to all of the above, the panel concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions 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 will send the NMC a reference seven days in advance of the next NMC hearing or meeting from either:*
 - *your line manager, mentor or supervisor*
This reference must address your clinical practice and performance, specifically focusing on your ability to document clinical care and should you be in a managerial position, an assessment of your performance within that position.
2. *Should you accept a managerial role during the course of your employment, you must have weekly supervision meetings with a band 6 nurse or above and this supervisor must provide any future panel with an overview of your progress, reflections and insight.*
3. *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.*

4. *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.*

5. *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 on a private basis when you are working in a self-employed capacity.*

6. *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.*

7. *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*

The period of this order is for a period of nine months to allow Ms Grant the appropriate time to comply with the conditions.'

Decision and reasons on current impairment

The panel has considered carefully whether Ms Grant'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, and whether they are able to 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 and the on-table email Ms Grant sent to the NMC dated 8 April 2024.

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 Ms Grant's fitness to practise remains impaired.

The panel noted that the original panel found that Ms Grant had insufficient insight. At this meeting the panel determined that Ms Grant's insight still remains insufficient. There is no evidence of strengthened practice or engagement since the conditions were imposed. Ms Grant has also not provided any evidence of further training or Continuing Professional Development (CPD) since the order was made.

In its consideration of whether Ms Grant has taken steps to strengthen her practice, the panel took into account the email dated 8 April 2024 in which Ms Grant advised that she has not been working as a nurse since June 2023. The panel noted that as a result of this, Ms Grant has not been able to demonstrate compliance with the conditions.

The panel further noted that the original panel identified the following aggravating features:

- A pattern of misconduct over a significant period of time.
- Conduct which put patients at risk of suffering harm.
- Limited insight into failings.

The panel identified a further aggravating feature:

- Ms Grant's limited engagement demonstrating no evidence of reflection or remediation thus far.

The original panel determined that Ms Grant was liable to repeat matters of the kind found proved. Today's panel has received no evidence of remediation that would suggest that she poses a reduced risk to the public. In light of this the panel determined that Ms Grant remains liable to repeat matters of the kind found proved. 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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Ms Grant 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 Ms Grant'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 Ms Grant's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate given that she has not engaged with the proceedings since the imposition of the order. The panel could not be reassured that a caution order would serve to protect the public in this case. The panel therefore decided that it would be neither proportionate nor in the public interest to impose a caution order. Furthermore, the panel determined in view of the absence of any evidence of insight, remediation or strengthened practice, that a caution order would not be sufficient to protect the public or meet the public interest.

The panel next considered whether imposing a further conditions of practice order on Ms Grant's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable, and workable. It determined that a conditions of practice order would allow Ms Grant the further opportunity to gain employment and demonstrate compliance.

The panel determined that the existing conditions remain appropriate and practical, and address the failings highlighted in this case. However, it determined that an additional

condition regarding an in-depth reflection, needs to be included in order for Ms Grant to demonstrate strengthened insight.

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 were no deep-seated attitudinal problems. In this case, conditions can 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 disproportionate at this stage and would not be a reasonable response in the circumstances of Ms Grant's case. The panel noted that the order was imposed on 8 September 2023 and Ms Grant stated in her email to the NMC dated 8 April 2024 that she has not been working as a nurse since June 2023. Notwithstanding this, the panel determined that Ms Grant ought to be given a further chance to demonstrate compliance before a suspension or striking-off order is considered.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a further period of 9 months, which will come into effect on the expiry of the current order, namely at the end of 9 July 2024. 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 will provide a detailed written reflection on the impact of your actions upon patients, your colleagues, and the wider reputation of the nursing profession.
2. You will send the NMC a reference seven days in advance of the next NMC hearing or meeting from either:
 - your line manager, mentor, or supervisorThis reference must address your clinical practice and performance, specifically focusing on your ability to document clinical care and

should you be in a managerial position, an assessment of your performance within that position.

3. Should you accept a managerial role during the course of your employment, you must have weekly supervision meetings with a band 6 nurse or above and this supervisor must provide any future panel with an overview of your progress, reflections, and insight.
4. 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.
5. 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.
6. 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 on a private basis when you are working in a self-employed capacity.
7. 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.
 8. 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.

The period of this order is for 9 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 9 July 2024 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 Ms Grant 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:

- Ms Grant's engagement at a future review hearing.

- An indication of whether she intends to return to nursing practice.
- Any evidence of training undertaken and evidence of maintaining knowledge and skills
- Up to date references or testimonials from any work Ms Grant has undertaken, whether paid or unpaid.

This will be confirmed to Ms Grant in writing.

That concludes this determination.