

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

**Substantive Order Review Hearing
Monday, 22 April 2024 & Wednesday, 1 May 2024**

Virtual Hearing

Name of Registrant: Melody Claire Kitney-Putnam

NMC PIN: 09E0254E

Part(s) of the register: Registered Nurse – Adult Nursing, Level 1 (22 October 2009)

Relevant Location: East Riding of Yorkshire

Type of case: Misconduct

Panel members: Rachel Ellis (Chair member)
Emily Davies (Registrant member)
Jane Dalton (Lay member)

Legal Assessor: Lachlan Wilson

Hearings Coordinator: Monowara Begum (22 April 2024)
Eyram Anka (1 May 2024)

Nursing and Midwifery Council: Represented by Ben D'Alton, Case Presenter (22 April 2024)
Bianca Huggins, Case Presenter (1 May 2024)

Mrs Kitney-Putnam: Not present and not represented on either date

Order being reviewed: Conditions of practice order (24 months)

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely 6 June 2024**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Kitney-Putnam was not in attendance and that the Notice of Hearing had been sent to Mrs Kitney-Putnam's registered email address on 22 March 2024.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Kitney-Putnam's mother, who is acting as her representative, on 22 March 2024.

Mr D'Alton, 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, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Kitney-Putnam'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 Kitney-Putnam 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 Kitney-Putnam

The panel next considered whether it should proceed in the absence of Mrs Kitney-Putnam. The panel had regard to Rule 21 and heard the submissions of Mr D'Alton who invited the panel to continue in the absence of Mrs Kitney-Putnam. He submitted that Mrs Kitney-Putnam, through her representative, had voluntarily absented herself.

Mr D'Alton submitted that Mrs Kitney-Putnam and her representative have disengaged with the NMC in relation to these proceedings and, as a consequence, there was no

reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mrs Kitney-Putnam. In reaching this decision, the panel considered the submissions of Mr D'Alton and the advice of the legal assessor. It had particular regard to 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 Kitney-Putnam
- Mrs Kitney-Putnam has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing.
- Mrs Kitney-Putnam, through her representative, has informed the NMC that she has received the Notice of Hearing.
- There is no reason to suppose that adjourning would secure her attendance at some future date.
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel decided that it is fair to proceed in the absence of Mrs Kitney-Putnam.

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

At the outset of the hearing, Mr D'Alton made a request that this case be held partly in private on the basis that proper exploration of Mrs Kitney-Putnam's case involves [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when [PRIVATE] in order to protect the confidentiality of such matters.

Decision and reasons on review of the substantive order

The panel decided to allow the current conditions of practice order to lapse upon expiry at the end of 6 June 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 24 months by a Fitness to Practise Committee panel on 6 May 2022.

The current order is due to expire at the end of 6 June 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. On the night shift of the 19/20 October 2017

1.1 Administered Diamorphine to patient E at or around 22.00 without a second checker present

1.2 ...

1.3. ...

1.4. Administered Midazolam to patient E at or around 03.00 without a second checker present

1.5. ...

1.6. ...

1.7. ...

1.8. ...

1.9. ...

1.10. *Administered Midazolam to Patient A at or around 21.50 without a second checker present*

1.11. ...

1.12. ...

1.13. *Administered Diamorphine to Patient A at or around 00.00 without a second checker present*

1.14. ...

1.15. ...

1.16. *Administered Diamorphine to Patient A at or around 03.50 without a second checker present*

1.17. ...

1.18. ...

1.19. *Administered Diamorphine to Patient C at or around 21.35 without a second checker present*

1.20. ...

1.21. ...

1.22. *Administered Diamorphine to Patient C at or around 01.30 without a second checker present*

1.23. ...

1.24. ...

1.25. *Administered Midazolam to Patient C at or around 02.45 without a second checker present*

1.26. ...

1.27. ...

1.28. *Administered Diamorphine to Patient C at or around 04.50 without a second checker present.*

1.29. ...

1.30. ...

2.1. ...

2.2. ...

3. *On the night shift of the 23/24 October 2017*

3.1 *Administered Diamorphine to Patient E at or around 21.00 without a second checker present*

3.2. ...

3.3. ...

3.4. Administered Diamorphine to Patient E at or around 06.55 without a second checker present

3.5. ...

3.6. ...

3.7. Administered Midazolam to Patient A at or around 22.30 without a second checker present

3.8. ...

3.9. ...

3.10. Administered Diamorphine to Patient A at or around 00.10 without a second checker present

3.11. ...

3.12. ...

3.13. Administered Midazolam to Patient A at or around 03.50 without a second checker present

3.14. ...

3.15. ...

3.16. ...

3.17. ...

3.18. ...

3.19. ...

3.20. ...

3.21. ...

3.22. *Administered Diamorphine to patient B without clinical justification'*

The original panel determined the following with regard to impairment:

'...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 finds that patients were put at real risk of significant harm as a result of Mrs Kitney-Putnam's misconduct due to the nature of the medication Mrs Kitney-Putnam administered without a second checker being present. Further, Mrs Kitney-Putnam's misconduct breached the fundamental tenets of the nursing profession and also brought its

reputation into disrepute. The panel noted that there appeared to be a culture of failure to follow policy regarding administration of controlled drugs at the Home, but determined that, as a registered nurse, Mrs Kitney-Putnam had an individual responsibility to follow the correct policies and procedures in order to protect patients from a risk of harm.

Regarding insight, the panel has seen very little evidence of insight on the part of Mrs Kitney-Putnam. The panel noted that no reflective statements have been provided by Mrs Kitney-Putnam, and that during the local investigation Mrs Kitney-Putnam did not demonstrate any significant remorse or insight into the allegations.

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 Mrs Kitney-Putnam has taken steps to strengthen her practice. The panel considered that it has not been provided with any evidence to demonstrate that Mrs Kitney-Putnam has strengthened her practice, for example relevant training certificates or testimonials.

The panel is of the view that there is a risk of repetition given the absence of evidence of insight or of Mrs Kitney-Putnam having strengthened her practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 this case and

therefore also finds Mrs Kitney-Putnam's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'...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 Mrs Kitney-Putnam'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 Mrs Kitney-Putnam'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 Mrs Kitney-Putnam'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, 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;*
- 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 it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel considered that there were identifiable areas of practice, specifically the administration of controlled drugs and end of life care, which could be addressed by conditions of practice. The panel considered that the public would be sufficiently protected by appropriate conditions of practice. The panel was of the view that it was in the public interest that, with appropriate safeguards, Mrs Kitney-Putnam should be able to return to practice as a nurse if she wishes to do so.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.'

Decision and reasons on current impairment

The panel carefully considered whether Mrs Kitney-Putnam'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 had regard to all of the documentation before it, including the NMC bundle, and responses from Mrs Kitney-Putnam and her representative. It has taken account of the submissions made by Mr D'Alton on behalf of the NMC.

Mr D'Alton submitted that Mrs Kitney-Putnam has not provided any evidence to show that she has taken steps to address the issues found proven. He submitted that there is no evidence of any training or work done to address the clinical concerns, and there is no evidence of remorse or insight, therefore the NMC submit a finding of impairment remains necessary in order to protect the public and uphold public interest in the profession.

Mr D'Alton submitted that the NMC highlight that the allegations found proven were serious and related to administration of controlled drugs to vulnerable patients, therefore, the NMC submit there is a real and serious risk of repetition and a risk of harm to patients. He submitted that the NMC agree with the conclusion of the previous substantive panel that the administration of controlled drugs is a fundamental tenet of the nursing profession. In the light of this, he submitted that Mrs Kitney-Putnam's fitness to practise remains impaired.

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 Kitney-Putnam's fitness to practise remains impaired.

The panel noted that the original panel determined that Mrs Kitney-Putnam had not provided a reflective statement and had not shown any significant remorse or insight into the allegations and there was no evidence of strengthening of practice. The original panel was of the view that there is a risk of repetition given the absence of evidence of insight and steps taken to strengthen her practice.

Today's panel has received no new information to suggest that Mrs Kitney-Putnam has shown insight, remorse, or taken steps to strengthen her practice. The panel also considered that Mrs Kitney-Putnam has not been practising since 2018 and has now made it clear that she does not wish to return to practising as a nurse. It further took into account that Mrs Kitney-Putnam has not been engaging with the NMC and that the conditions of practice order has not come into effect as she has not been working as a registered nurse.

In light of this, this panel determined that Mrs Kitney-Putnam is still liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the ground of public protection.

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 Mrs Kitney-Putnam's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Kitney-Putnam'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.

Mr D'Alton reminded the panel of their powers in relation to sanction. He submitted that the NMC propose that an appropriate level of public protection would be able to be achieved if the panel allow the order to lapse. He referred to the bundle highlighting that Mrs Kitney-Putnam's registration fee expired in October 2018. He submitted that at the time of the original substantive hearing Mrs Kitney-Putnam made it clear that she did not wish to return to practice. It was his submission that due to her lack of engagement and minimal engagement from her representative, this may indicate that the position remains the same.

Mr D'Alton submitted that if the panel chose not to allow the current order to lapse then the next sanction to consider would be an extension of the current conditions of practice order to provide an appropriate level of public protection. He reminded the panel that Mrs Kitney-Putnam has been subject to an interim suspension order since 2018 and at the substantive hearing in 2022 Mrs Kitney-Putnam provided no evidence of training, remediation, or insight. He submitted this remains the same position today and in light of

the lack of evidence of remorse or remediation in the last six years a further order of conditions of practice of any length would be inappropriate and ineffective and serve no purpose.

Mr D'Alton outlined that the next sanction to consider would be a suspension order. He submitted that the NMC propose this would provide an appropriate level of public protection and the panel may consider a period of short suspension to allow Mrs Kitney-Putnam and her representative a further opportunity to engage with the NMC proceedings. He reminded the panel that this case is [PRIVATE] to Mrs Kitney-Putnam and that there is a real risk that an order continuing in any form [PRIVATE].

Mr D'Alton submitted that a striking off order is also available to the panel. He submitted that this sanction would protect the public and could be appropriate in a case wherein insight is not developing. Mr D'Alton also outlined that a striking off order could be appropriate if previous, less restrictive sanctions had been tried but were unsuccessful in addressing the concerns. He proposed that a striking off order should only be exercised when no other order is sufficient.

The panel first considered taking no further action and allowing the current substantive order to lapse. The panel considered the guidance on allowing orders to lapse.

The guidance (REV-3h) sets out:

“Before allowing a professional to leave the register by lifting a substantive order or allowing it to expire, the panel should make it clear whether they consider the professional’s fitness to practise to be currently impaired. This is because nurses, midwives or nursing associates, whose registration lapses or are removed from the register after a suspension or conditions of practice order expires or is lifted, can apply for readmission. In looking at any application in the future, and deciding whether the nurse, midwife or nursing associate is capable of safe and effective practice and meets the requirements for health and character, the Registrar (or one of our Assistant Registrars who also make decisions on behalf of the Registrar) would be able to take account of the panel’s decision whether the nurse, midwife or

nursing associate's fitness to practise was still impaired when they were removed from the register."

The guidance also states:

*'Because nurses, midwives and nursing associates can apply for readmission to the register as soon as their registration lapses, it is important that the panel is **sure** that the nurse, midwife or nursing associate no longer wants to practise before it decides to let an order expire.'* [panel's emphasis]

In light of the guidance, the panel took the view that it could not consider allowing the order to lapse without confirmation from Mrs Kitney-Putnam regarding her future intentions for her nursing career.

On 22 April, in considering whether to allow the current substantive order to lapse, the panel therefore asked Mr D'Alton to email Mrs Kitney-Putnam's representative to confirm that she no longer wished to practice as a registered nurse. The hearing was adjourned due to lack of time, at which point there was no response from Mrs Kitney-Putnam's representative.

During the adjournment of this hearing, the NMC received a response from the Mrs Kitney-Putnam's representative dated 23 April 2024 stating,

'FOR THE FINAL TIME AND NOW PLEASE LEAVE US ALONE [PRIVATE] NO SHE DOES NOT WANT TO BE A NURSE...'

The panel concluded from this correspondence that Mrs Kitney-Putnam has no intention of returning to nursing practice. It further noted that she is only on the register by virtue of this order. In light of this, the panel decided that if it were to allow the substantive conditions of practice order to lapse the public would still be protected as the finding of current impairment would remain against her name and these matters would be further considered should she attempt to rejoin the register in the future.

In all the circumstances, the panel determined that Mrs Kitney-Putnam's case met the criteria set out in the guidance and decided to allow the current substantive conditions of practice order to lapse upon expiry.

This decision will be confirmed to Mrs Kitney-Putnam in writing.

That concludes this determination.