

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

**Substantive Order Review Meeting
Friday, 31 May 2024**

Virtual Meeting

Name of Registrant: Lesley Kim Parton

NMC PIN 75I0140E

Part(s) of the register: Registered Nurse – Mental Health Nursing (April 1977)

Relevant Location: Oxfordshire

Type of case: Misconduct

Panel members: Nicola Dale (Chair, lay member)
Vanessa Bailey (Registrant member)
Joanna Bower (Lay member)

Legal Assessor: Jayne Salt

Hearings Coordinator: Audrey Chikosha

Order being reviewed: Conditions of practice order (6 months)

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely 17 July 2024.**

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 Mrs Parton's registered email address by secure email on 22 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 28 May 2024 and inviting Mrs Parton 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 Mrs Parton 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 let the order lapse with a finding of impairment. This order will come into effect at the end of 17 July 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 20 December 2022. This was reviewed on 30 November 2023 and where the panel imposed a further conditions of practice order for a period of 6 months in accordance with Article 30(1).

The current order is due to expire at the end of 17 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 11 February 2019:

- a) did not assist in the management and/or restraint of Resident C when it would have been clinically appropriate to do so.*
- b) did not press the emergency button or pull the emergency cord to call for help in dealing with Resident C when it would have been clinically appropriate to do so.*
- c) did not call the police in response to Resident C’s aggression when his care plan indicated the police should be called.*

2) On 29 March 2019:

- a) asked Colleague A to restrain Resident A when you knew Colleague A was not trained to do so.*
- b) ...*
 - i) ...*
 - ii) ...*
- c) did not record that Resident A had been subject of a restraint.*

3) On 07 May 2019:

- a) did not administer medication to Resident B when it would have been clinically appropriate to do so.*
- b) asked Colleague B to count out a resident’s ‘To Take Out’ medication when she was not qualified to do so.*
- c) left a resident’s ‘To Take Out’ medication with Colleague B when she was not qualified to be left with medication and when no qualified member of staff was on shift to supervise.*
- d)...*

4) On 11 May 2019, instructed that Resident A should be assisted to shower by 2 care assistants contrary to her care plan which required 3 members of staff.

5) On 12 May 2019, left Resident B's medication with Colleague B when she was not qualified to be left with medication.

6) On 16 May 2019:

a) ...

b) did not administer prescribed medication to Resident B or, in the alternative, did not record that you had administered said medication.

[Charge found proved in respect of not recording]

7) On 28 May 2019, having dropped a quantity of Resident B's medication, did not dispose of and re-dispense his medication.

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

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

'The panel considered whether Mrs Parton's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Parton has in the past placed service users and colleagues at unwarranted risk of harm. The original panel also found that Mrs Parton's failings encompassed basic aspects of nursing practice and a failure to comply with care plans and several policies designed to maintain the safety of service users and colleagues. The panel further noted that the original panel found that Mrs Parton had shown limited insight, and that her written reflection did not sufficiently address the concerns and instead focused mainly on the impact on herself rather than service users, colleagues, or the public.

At this meeting, and similarly to what the original panel found, the panel noted that it had not been provided with any recent evidence of reflection or testimonials from Mrs Parton. The panel could therefore not be satisfied from the limited evidence it had received that Mrs Parton fully understands and appreciates the extent of her actions.

Additionally, the panel has regard to an email dated 7 November 2023, from the NMC to Mrs Parton, stating:

'... Following our telephone conversation on 2 November 2023, please can you confirm in writing, if you would like to make an application at your next review to allow your order to lapse? If so, please can you explain why, and state what your future intentions are in regards to working in the nursing/midwifery profession, to assist the reviewing panel in their consideration of the matter...'

The panel has regard to Mrs Parton's response to the NMC, via an email dated 27 November 2023, stating:

'... Thank you for your above email, I would like to apologise for the delay in replying. I have considered my possible options regarding my future career as a nurse quite carefully.

I have decided to retire from nursing. I have several health issues which would impact my ability to perform my duties as a nurse, therefore I should like the committee to consider at my upcoming review for the order to lapse thus removing me from the register...'

However, the panel noted that although it has new information regarding Mrs Parton's health and a request to be removed from the register, it is not clear as to whether Mrs Parton will be making a formal application to allow her order to lapse as she did not confirm this to the NMC in her email and has not made such an application to date.

In light of these circumstances, the panel 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 Mrs Parton's fitness to practise remains impaired.'

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

'Having found Mrs Parton'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 Mrs Parton'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 Parton'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 imposing a further conditions of practice order on Mrs Parton's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel noted that by imposing a further conditions of practice order, it allows Mrs Parton time to contact the NMC and proceed with a formal application to remove herself from the register, if this is what she chooses to do.

The panel therefore determined that the existing conditions are sufficient to address the findings highlighted and that continuing those conditions would be sufficient to protect patients and the wider public interest.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Mrs Parton's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 6 months, which will come into effect on the expiry of the current order, namely at the end of 17 January 2024. It decided to confirm 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 must not administer medication until you have been deemed competent to do so by your line manager, mentor or supervisor.*
- 2) You must not be the sole registered nurse on duty until you have been deemed competent to be so by your line manager, mentor or supervisor.*
- 3) You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development*

plan designed to address the concerns about the following areas of your practice:

- a) management and administration of medication*
 - b) importance of following policies, specifically, restraint policy and medication policy*
 - c) documentation including care planning and the importance of adhering to them*
- 4) *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
- 5) *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC before any NMC review hearing or meeting.*
- 6) *You must keep the NMC 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.*
- 7) *You must keep the NMC 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.*

- 8) *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*

- 9) *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.*

- 10) *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.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Parton's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (NMC) has defined fitness to practise as a registrant's ability to practice 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 which included emails from Mrs Parton.

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 Parton's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Parton had insufficient insight. At this meeting the panel had no new information before it to suggest this has changed.

In its consideration of whether Mrs Parton had taken steps to strengthen her practice, the panel had no information before it to suggest that she has.

The panel therefore decided that a finding of continued 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 continued impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Mrs Parton'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 had regard to its previous findings on impairment in coming to this decision. It bore in mind that its primary purpose was to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

In this case, while there were concerns regarding Mrs Parton's clinical practice, the panel noted that Mrs Parton only remains on the NMC register as a result of these proceedings. It noted that Mrs Parton's registration fee expired on 30 April 2022. The panel had regard to the email dated 27 November 2023 from Mrs Parton expressing her intention to retire. It noted that the previous panel did not have clarification that this email was Mrs Parton's formal application to let the current order lapse. However, today, the panel had before it a further email from Mrs Parton dated 1 December 2023 which reads:

'... I refer to the last email to you on the 27th. I do hope this was acceptable and enough information for you to proceed with my application for my order to lapse.'

In light of this, the panel was satisfied that Mrs Parton no longer intends to practice as a registered nurse and therefore public protection would be maintained should this order be allowed to lapse. Having considered its findings on impairment, the panel was satisfied that the lapsing of the current order and simultaneously Mrs Parton's NMC PIN would also meet the public interest. The panel also noted that should Mrs Parton apply to return to the register her current impairment would be flagged, and she would have to prove that she was no longer impaired in order to practise without restriction.

The panel therefore determined to allow the substantive conditions of practice order to lapse at the end of the current period of imposition, namely the end of 17 July 2024 in accordance with Article 30(1)

This will be confirmed to Mrs Parton in writing.

That concludes this determination.