

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

**Substantive Order Review Hearing  
Thursday, 23 May 2024**

Virtual Hearing

**Name of Registrant:** Natalie Jane Smith

**NMC PIN** 10G0695E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Childrens Nursing – August 2010

**Relevant Location:** Peterborough

**Type of case:** Lack of competence

**Panel members:** Lucy Watson (Chair, registrant member)  
Deepa Leelamany (Registrant member)  
Isobel Leaviss (Lay member)

**Legal Assessor:** Hala Helmi

**Hearings Coordinator:** Flynn Cammock-Nicholls

**Nursing and Midwifery Council:** Represented by Matthew Kewley, Case Presenter

**Miss Smith:** Not present and not represented at the hearing

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

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order (12 months) to come into effect at the end of 27 June 2024 in accordance with Article 30 (1)**

## **Decision and reasons for hearing to be held in private**

During the course of the hearing, the panel considered whether to hold parts of this hearing be held in private, pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules), on the basis that matters related to [PRIVATE] were mentioned.

The panel accepted the advice of the legal assessor. 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 matters related to [PRIVATE] were raised in order to [PRIVATE].

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Smith was not in attendance and that the Notice of Hearing had been sent to her registered email address by secure email on 11 April 2010.

Mr Kewley, 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. It included instructions on how to join, and information about Miss Smith'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 Miss Smith 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 Miss Smith**

The panel next considered whether it should proceed in the absence of Miss Smith. The panel had regard to Rule 21 and heard the submissions of Mr Kewley who invited the panel to continue in the absence of Miss Smith.

Mr Kewley submitted that there had been no engagement at all by Miss Smith with the NMC in relation to this hearing and that there was no reason to believe an adjournment would secure her attendance on some future occasion.

Mr Kewley outlined the timeline of the NMC's attempts to contact Miss Smith. She did not attend the last substantive order review on 15 November 2023 because, at the request of the Royal College of Nursing (RCN), it was held as a substantive order review meeting rather than as a hearing. On 9 April 2024, the RCN informed the NMC that it no longer represented Miss Smith. On 11 April 2024, the NMC directly emailed Miss Smith with the Notice of Hearing. Miss Smith did not respond to this email. On 29 April 2024 the NMC sent a further email to Miss Smith to ask if she would like to attend this review hearing. Miss Smith did not respond to this email. On 21 May 2024, the NMC made a telephone call to Miss Smith's registered telephone number. There was a constant dial tone and, accordingly, no way for the NMC to leave a voice message. Further, the hearings coordinator emailed Miss Smith on 22 May 2024. The email contained a link to the virtual hearing and an enquiry of whether she wished to attend. She did not respond.

Mr Kewley submitted that Miss Smith may have voluntarily absented herself.

In response to panel questions, Mr Kewley said that, after the RCN informed the NMC that it no longer represented Miss Smith, the NMC did not follow up with the RCN to seek up-to-date contact details for Miss Smith. He clarified that Miss Smith has not directly engaged with the NMC since 13 January 2023.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Smith. In reaching its decision, the panel has considered the submissions of Mr Kewley, and the advice of the legal assessor. It has had particular regard to the 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 Miss Smith;
- Miss Smith has not engaged directly with the NMC since 13 January 2023 and has not responded to any of the NMC's emails sent or telephone calls made to her about this hearing;
- It is Miss Smith's responsibility to maintain an up-to-date email address and phone number on the register;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and,
- There is a strong public interest in the expeditious review of the case.

In these circumstances, Miss Smith appears to have voluntarily absented herself. The panel has therefore decided that it is fair to proceed in her absence.

[PRIVATE]

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

The panel decided to make a conditions of practice order for a period of 12 months.

This order will come into effect at the end of 27 June 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive conditions of practice order imposed for a period of 12 months by a Fitness to Practise Committee panel on 30 November 2022. This was reviewed on 14 November 2023 when the panel extended the conditions of practice order for a period of 6 months.

The current order is due to expire on 27 June 2024.

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

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

*‘That you, a registered nurse:*

- 1) *Whilst employed by North West Anglia NHS Foundation Trust between December 2018 and November 2019:*
  - a) *failed to demonstrate the standards of knowledge, skill and judgment in medication administration required to practise without supervision as a registered nurse, in that you:*
    - i. *on 20/21 December 2018, administered inhaler medication, namely Salbuamol, incorrectly in that you did not count at least 8 seconds per puff.*
    - ii. *on 08 February 2019, did not administer medication, namely co-amoxiclav, as prescribed to Patient F.*
  - b) *failed to demonstrate the standards of knowledge, skill and judgment in patient care required to practise without supervision as a registered nurse, in that you:*
    - i. *on 30 December 2018, did not replenish two tracheostomy boxes after use.*
    - ii. *on 04 January 2019, did not complete vital signs for Patient C when it would have been clinically appropriate to do so.*
  - c) *failed to demonstrate the standards of knowledge, skill and judgment in practising within your scope of practice required to practise without supervision as a registered nurse, in that you:*
    - i. *on 25 December 2018, inserted a nasal bridle when you did not have the training required to do so safely.*
    - ii. *on 30 July 2019, cannulated a patient when did not have the training required to do so safely.*

d) *failed to demonstrate the standards of knowledge, skill and judgment in record keeping required to practise without supervision as a registered nurse, in that you:*

- i. *on 20/21 December 2018, did not record in Patient A's notes that you had administered inhaler medication.*
- ii. *on 04 January 2019, did not complete any records for Patient C between 14.19 and 18.50 when it would have been clinically appropriate to do so.*
- iii. *on 05 January 2019, did not complete a cannula care bundle for Patient D.*
- iv. *on 09 January 2019:*
  1. *between c. 20.00 and 06.30 did not complete admission, plan of care and care delivered documentation in respect of an unknown patient.*
  2. *did not sign the drug chart for a patient in Bed 29 or record the time at which you had administered this patient's medication.*
  3. *did not record feeds given to a patient in Bed 30 in the patient's notes*
  4. *did not undertake or record CSM observations for the patient in Bed 30 when it would have been clinically appropriate to do so.*
- v. *on 24 January 2019, did not sign Patient E's prescription chart to confirm IV medication had been administered.*
- vi. *on 21 October 2019:*
  1. *signed to indicate you had administered medication, namely ibuprofen, to Patient G when you had not done so.*
  2. *re-signed Patient G's prescription chart when you administered the medication referred to above without correcting/deleting the earlier erroneous entry.*

e) *failed to demonstrate the standards of knowledge, skill and judgment in escalation of care to practise without supervision as a registered nurse, in that you:*

- i. on 09 April 2019, inappropriately escalated a query about your scope of practice to a staff member who was not on site.

2) [PRIVATE]

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

Schedule 1

1) [PRIVATE]

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

*'The panel considered whether Miss Smith's fitness to practise remains impaired.*

*The panel noted that the original panel found that Miss Smith had insufficient insight. At this meeting, the panel had no further information before it regarding insight.*

*In its consideration of whether Miss Smith has taken steps to strengthen her practice, the panel took into account the correspondence from Miss Smith dated 13 January 2023 in which she had said she was not working at that time.*

*The original panel determined that Miss Smith was liable to repeat matters of the kind found proved. Today's panel has received no new information regarding repetition. 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 Miss Smith's fitness to practise remains impaired.'*

The first panel determined the following with regard to sanction:

*'Having found Miss Smith 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 Miss Smith'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 Miss Smith's misconduct [sic] 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 Miss Smith'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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.*



*The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. In this case, there are conditions could 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 would be wholly disproportionate and would not be a reasonable response in the circumstances of Miss Smith'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 28 December 2023. 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 must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, a registered nurse of band 6 or above.*
- 2. You must work with your line manager, supervisor or mentor to create a personal development plan (PDP). Your PDP must address the alleged regulatory concerns about medication administration, patient care, scope of practice, record keeping and escalation of care.*
- 3. You must:*
  - a) Send your case officer a copy of your PDP within four weeks of commencing any work.*

- b) *Meet with your line manager, supervisor, or mentor at least every two weeks to discuss your progress towards achieving the aims set out in your PDP.*
  - c) *Send your case officer a report from your line manager, supervisor, or mentor before the next review. This report must show your progress towards achieving the aims set out in your PDP.*
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 6 months.'*

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

The panel has considered carefully whether Miss Smith's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has said that the question which will help decide fitness to practise is whether a nurse can 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 submissions made by Mr Kewley.

Mr Kewley outlined the background of the case and referred the panel to the relevant pages in the bundle. He submitted that matters have not moved on since the substantive order was last reviewed. He submitted that there is no new information relating to Miss Smith's insight or strengthened practice and that therefore the risk of repetition remains high. He submitted that the panel should find that Miss Smith's fitness to practice remains impaired on the grounds of public protection and public interest.

On the matter of sanction, Mr Kewley submitted that the panel should extend the interim conditions of practice order currently in place. He submitted that this is the least restrictive sanction that would sufficiently protect the public and satisfy the public interest. He submitted that the concerns identified with Miss Smith's practice are remediable but that

she has not addressed them. He submitted that extending the current conditions of practice order would give Miss Smith an opportunity to engage with the NMC and to address the concerns identified.

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.

In light of the previous findings, there is now a persuasive burden on Miss Smith to demonstrate that her fitness to practise is no longer impaired.

The panel determined that Miss Smith's fitness to practise remains impaired.

The panel noted that Miss Smith admitted all the charges and agreed a consensual panel determination. However, the panel has had no information regarding insight into her lack of competence, or any evidence that Miss Smith has taken any steps to strengthen her practice since the substantive order was imposed. The original panel determined that Miss Smith was liable to repeat matters of the kind found proved. Today's panel has received no information that would reduce this risk and determined that the risk of repetition remains. The panel considered that Miss Smith's actions in relation to the charges found proved, namely not monitoring a patient post-procedure who had been sedated, not replacing tracheostomy tube packs, and poor record keeping related to medications administration, put patients at real risk of harm. The panel therefore decided that a finding of continuing impairment is necessary on the ground 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 performance and competence. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required because in the absence of any evidence of remediation, the public's confidence in the profession would be undermined.

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

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

Having found Miss Smith'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 ongoing risk of harm. The panel decided that it would not be proportionate, adequately protect the public, nor be 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 ongoing risk of harm, and the public protection issues identified, an order that does not restrict Miss Smith'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 Miss Smith's lack of competence 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 not be proportionate, adequately protect the public, nor be in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on Miss Smith'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 determined that it would be possible to formulate appropriate and practical conditions which would address the competency issues highlighted in this case. It determined that the concerns identified with Miss Smith's practice were remediable. Although it did not have any evidence that she has strengthened her practice, the panel

noted that at the substantive hearing it was recorded that Miss Smith had not worked as a nurse since December 2019.

The panel determined to vary condition 1 to allow Miss Smith to be supervised by a band 5 or above nurse rather than a band 6 or above nurse. This was on the basis that an experienced band 5 nurse could provide appropriate supervision. Requiring Miss Smith to be supervised by a band 6 nurse might unnecessarily reduce the scope of nursing roles available to her. It also varied condition 2 to better clarify the clinical areas of concern identified.

The panel was of the view that this varied conditions of practice order is sufficient to protect patients and the wider public interest, whilst enabling Miss Smith to work and strengthen her practice.

The panel was of the view that to impose a suspension order at this stage would not be a reasonable response in the circumstances of Miss Smith's case.

This varied conditions of practice order will take effect as a new conditions of practice order for a period of 12 months pursuant to Article 30(1)(c). It will come into effect on the expiry of the current order, namely at the end of 27 June 2024. The panel 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 must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, a registered nurse of band 5 equivalent or above.

2. You must work with your line manager, supervisor, or mentor to create a personal development plan (PDP) which must be reviewed every six weeks. Your PDP must address the following areas of competency to be signed off when complete:
  - a) Management and administration of medication.
  - b) Monitoring patients' vital signs.
  - c) Working within the scope of your practice.
  - d) Escalating when there is a concern.
  - e) Record keeping.
  
3. You must:
  - a) Send your case officer a copy of your PDP within four weeks of commencing any work.
  - b) Meet with your line manager, supervisor, or mentor at least every two weeks to discuss your progress towards achieving the aims set out in your PDP.
  - c) Send your case officer a report from your line manager, supervisor, or mentor before the next review. This report must show your progress towards achieving the aims set out in your PDP.
  
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 12 months. The panel determined that this was a proportionate duration in light of the ongoing risk as well as the lack of evidence of strengthened practice. The panel considered that this length of time would also give Miss Smith sufficient time to seek and gain employment in which to demonstrate safe and professional practice as a registered nurse. The panel also considered that experience as a care worker or in similar roles could be helpful.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 27 June 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing in accordance with Article 30.

Additionally, Miss Smith or the NMC may ask for the substantive order to be reviewed early if any new evidence becomes available that may be relevant to the order. Relevant evidence could include further training or evidence of safe practice as a registered nurse or in a different care setting.



The panel noted that if Miss Smith does not engage with the NMC, or demonstrate evidence of compliance with these conditions, or provide other evidence of insight and remediation, a future panel may impose a suspension or a striking-off order.

The panel noted that Miss Smith's most recent engagement with the NMC was through her representative, and prior to the last review. She has not been in direct contact with the NMC since 13 January 2023. Accordingly, the panel determined that a future panel would be assisted by confirmation from Miss Smith regarding her future intentions to either return to work as a registered nurse or to be removed from the register.

Miss Smith may be assisted by the following parts of the NMC Guidance [REV-3h] *'Allowing nurses, midwives or nursing associates to be removed from the register when there is a substantive order in place'*. The guidance states:

*'In most circumstances nurses, midwives or nursing associates who are subject to a substantive suspension or conditions of practice order, but no longer wish to continue practising, should be allowed to be removed from the register. Our Order and Rules state that professionals cannot be removed from the register while a substantive suspension or conditions of practice order is in place.*

*[...]*

*The nurse, midwife or nursing associate can indicate at a standard review that they no longer wish to continue practising; the panel will then be invited to let the substantive order expire in order to allow the professional to be removed from the Register.'*

Any future panel reviewing this case would therefore be assisted by:

- Miss Smith's engagement with the NMC;
- An update on Miss Smith's future intentions with regard to remaining on the register.
- Miss Smith's attendance at the hearing;
- A reflective piece demonstrating insight into her lack of competence and evidence of training, in-person or virtual, that Miss Smith has taken to strengthen her practice.

[PRIVATE]

This will be confirmed to Miss Smith in writing.

That concludes this determination.