

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

**Substantive Order Review Hearing
Wednesday, 13 November 2024**

Virtual Hearing

Name of Registrant:	Ann Katherine Chambers
NMC PIN	7512654E
Part(s) of the register:	Registered Nursing – RN1, Adult Nurse (December 1978)
Relevant Location:	Hackney
Type of case:	Misconduct
Panel members:	Anthony Kanutin (Chair, lay member) Anne Phillimore (Lay member) Jason Flannigan-Salmon (Registrant member)
Legal Assessor:	Hala Helmi
Hearings Coordinator:	Ifeoma Okere
Nursing and Midwifery Council:	Represented by Eilish Lindsay, Case Presenter
Mrs Chambers:	Not Present and unrepresented
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Order to lapse with impairment upon expiry in accordance with Article 30 (1), namely 18 December 2024

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Chambers was not in attendance and that the Notice of Hearing had been sent to Mrs Chambers' registered email address by secure email on 15 October 2024.

Ms Lindsay, 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). Ms Lindsay explained that due to Mrs Chambers' limited engagement, the NMC took additional steps in August 2023 to obtain updated contact details, including a current email address and phone number, with assistance from Mrs Chambers' [PRIVATE]. She noted that despite repeated attempts, the NMC faced considerable difficulties in contacting Mrs Chambers, who has not responded to emails or phone calls. The email address previously held for Mrs Chambers was her NHS email address, which has now been updated to the email provided by her [PRIVATE].

Ms Lindsay acknowledged that using this alternative method to serve notice was unconventional. However, she submitted that the NMC had taken reasonable and sufficient steps to notify Mrs Chambers using the most accurate contact information available.

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, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Chambers' 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 Chambers has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34. Taking into account the NMC's efforts to reach Mrs Chambers through updated contact information, the panel was satisfied that all notice requirements had been met.

Consequently, the panel deemed that service of the Notice of Hearing had been properly effected.

Decision and reasons on proceeding in the absence of Mrs Chambers

The panel next considered whether it should proceed in the absence of Mrs Chambers. The panel had regard to Rule 21 and heard the submissions of Ms Lindsay who invited the panel to continue in the absence of Mrs Chambers. Ms Lindsay submitted that Mrs Chambers had voluntarily absented herself.

Ms Lindsay submitted that there had been no engagement at all by Mrs Chambers 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. Ms Lindsay further submitted that multiple attempts had been made to contact Mrs Chambers, as detailed in the bundles, in order to ascertain her intention to attend today's hearing. She referenced a note of a phone call between a NMC officer and Mrs Chambers dated 7 November 2024, which indicated that Mrs Chambers had voluntarily chosen not to attend, stating that she no longer wished to continue in nursing and would not be returning. When asked whether she was content for the hearing to proceed in her absence, Mrs Chambers confirmed that she was.

Given Mrs Chambers' clear decision to disengage from the proceedings and her lack of involvement, Ms Lindsay argued that an adjournment would serve no useful purpose. There was no reason to believe that postponing the hearing would result in her attendance at a future date. Additionally, there was a public interest in proceeding, particularly given the imminent expiry of the substantive order under review. Therefore, Ms Lindsay submitted that the hearing should continue in Mrs Chambers' absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Chambers. In reaching this decision, the panel has considered the submissions of Ms Lindsay, and the advice of the legal assessor. It has had particular regard to any 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 Chambers;
- Mrs Chambers has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing;
- Mrs Chambers has informed the NMC that she is content for the hearing to proceed in her absence;
- 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 order which is due to expire on 18 December 2024.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Chambers.

Decision and reasons on review of the substantive order

The panel decided to allow the order to lapse with impairment upon expiry on 18 December 2024.

This order will cease at the end of 18 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 17 November 2023.

The current order is due to expire at the end of 18 December 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) *Between April 2021 and 17 December 2021 attended work whilst under the influence of [PRIVATE] on one or more occasions. [PROVED]*

2) *[...]*

The original panel determined the following with regard to impairment:

'The panel finds that patients were put at patients at unwarranted risk of harm as a result of Mrs Chambers' misconduct. The panel was of the view that Mrs Chambers' misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Mrs Chambers had made admissions to the charges at a very early stage when meeting with Witness 1 and during the internal Trust investigation. The panel considered that Mrs Chambers' answers during the investigatory meetings demonstrated some insight.

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 Chambers has taken steps to strengthen her practice. However, the panel had nothing before it to demonstrate any steps Mrs Chambers has taken to address the misconduct, her [PRIVATE] or strengthen her practice.

Therefore, the panel is of the view that there is a risk of repetition based on the lack of evidence before it. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and

midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as a member of the public, aware of the circumstances in this case would be concerned if a nurse with these concerns was allowed to practise unrestricted.

Having regard to all of the above, the panel was satisfied that Mrs Chambers' fitness to practise is currently impaired'

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. It considered that Mrs Chambers has demonstrated some insight for her actions by her early admissions.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with Mrs Chambers remaining on the NMC register. It determined that the 12 month period would allow Mrs Chambers the opportunity to [PRIVATE] and either express a wish to continue nursing or take the necessary steps to remove herself from the NMC register.

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

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

The panel noted the potential hardship such an order will inevitably cause Mrs Chambers. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Chambers' fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally. In considering this case, the panel 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 telephone conversation responses from Mrs Chambers. It has taken account of the submissions made by Ms Lindsay on behalf of the NMC. Ms Lindsay submitted that Mrs Chambers had not complied with the non-binding guidance provided by the previous panel, which outlined steps for her remediation. Despite multiple attempts by the NMC to engage with her, including emails and phone calls, Mrs Chambers had failed to respond or provide any updated information. Ms Lindsay argued that Mrs Chambers had shown no effort to engage or address the concerns raised, following the finding that her fitness to practise was impaired due to misconduct.

Ms Lindsay further submitted that there was no evidence of Mrs Chambers demonstrating any insight into the seriousness of her misconduct or taking steps to address it. She had not provided information about her current employment or shown any effort to remediate

her fitness to practise. It is believed that she may have retired and is not working in any capacity.

In considering the appropriate sanction, Ms Lindsay stated that a further suspension would be unlikely to be effective or serve any useful purpose, given the lack of progress during the current suspension. She argued that both a no further action and caution order would be inappropriate due to the seriousness of the case. Ms Lindsay also stated that there were no workable conditions that could address the misconduct found proved. Given Mrs Chambers' limited engagement, lack of insight, and failure to remediate, Ms Lindsay submitted that striking off was the most appropriate sanction. Alternatively, allowing the suspension order to lapse, leading to automatic removal from the register, would also be an appropriate outcome.

Ms Lindsay concluded that Mrs Chambers' fitness to practise remains impaired and that either striking her off or allowing the suspension order to lapse, resulting in automatic removal, would best protect the public and uphold the integrity of the profession.

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 Chambers' fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Chambers had some insight considering her admissions during the investigatory meetings. At this hearing, the panel noted that Mrs Chambers has not apologised for her misconduct and has shown no remorse for her actions. Furthermore, Mrs Chambers has demonstrated a total lack of engagement with the NMC, as evidenced by her failure to respond to multiple attempts by the NMC to contact her, including emails and phone calls. She has not provided any information or updates regarding her current circumstances or her efforts to remediate her practice.

In its consideration of whether Mrs Chambers has taken steps to strengthen her practice, the panel took into account that Mrs Chambers has not taken any steps to address the concerns raised in the previous hearing, including failing to undertake any additional relevant training, provide a reflective piece, or demonstrate any insight into her misconduct. There was also no evidence to suggest that she has undertaken any medical assessments or sought support in relation to the concerns raised.

The original panel determined that Mrs Chambers was liable to repeat matters of the kind found proved. Today's panel has received information indicating that Mrs Chambers does not wish to return to practice. In light of this, and in the absence of any new information or evidence that might reassure the panel, this panel determined that should she return to work as a registered nurse, Mrs Chambers would be 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 Mrs Chambers' fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Chambers' 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 is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel bore in mind that the original panel found that Mrs Chambers had limited insight and that imposing a twelve-month suspension order was appropriate in maintaining public protection and satisfying public interest considerations in this case.

The panel took into account Mrs Chambers correspondence with the NMC:

In a telephone call to Mrs Chambers, answered by her [PRIVATE] by the NMC dated 3 August 2023, it was recorded:

“[PRIVATE] then mentioned that Mrs Chambers is retired”

In a subsequent telephone call to Mrs Chambers by the NMC dated 7 February 2024, it was recorded:

“I have called the registrant regarding her case and hearing. She has answered and stated she will not be attending the hearing and doesn't want anything to do with nursing and will not be returning [sic].

I have asked if she is happy for the hearing to go ahead in her absence registrant has stated yes”

The panel has received information suggesting that Mrs Chambers considers herself retired from nursing. In those circumstances, she remains on the register solely due to the ongoing proceedings. It also observed that Mrs Chambers has clearly indicated her intention to leave the nursing profession. The panel concluded that Mrs Chambers has shown a clear and settled intention to discontinue her career in nursing.

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 Chambers' 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 Chambers' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mrs Chambers' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would effectively address the concerns relating to Mrs Chambers' misconduct. Given her clear and settled intention not to return to nursing, the panel concluded that any conditions of practice order would be unworkable and would serve no useful purpose.

The panel considered the possibility of imposing a further suspension order but determined that it would not be appropriate in this case. While a suspension could allow Mrs Chambers more time to reflect on her previous failings, her continued lack of engagement and clear statement that she does not intend to return to the nursing profession indicate that a further period of suspension would serve no purpose. Despite being given the opportunity for reflection and remediation during her previous suspension, Mrs Chambers has not engaged, demonstrated insight, or taken any steps towards addressing the concerns raised. Continuing with a suspension in this context would not only be ineffective but also a waste of registrants' resources. Given her lack of interest in re-engaging with the profession, the panel concluded that a suspension is no longer an appropriate or constructive sanction.

The panel also had regard to the NMC guidance on *'Removal from the register when there is a substantive order in place'* (REV-3h), which was recently updated on 30 August 2024. It had particular regard to the following parts in section *'2. Lapse with impairment'*:

"A panel will allow a professional to lapse with impairment where:

- *the professional would no longer be on the register but for the order in place;*
- *the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- *a striking off order isn't appropriate.*

The panel considered the option of allowing Mrs Chambers' registration to lapse with impairment, which was deemed appropriate in this case. Allowing her registration to lapse ensures public safety, as she would need to reapply if she wished to return to the register in the future and her misconduct will remain on record and would need to be addressed. From a reputational perspective, it was felt that allowing the order to lapse with impairment would be more proportionate, as it avoids the more severe action of striking her off while still reflecting her intention to retire from the nursing profession.

The panel considered the option of striking Mrs Chambers off the register but determined that this would be disproportionate and potentially damaging to her reputation, given her apparent exemplary career. The substantive panel found that Mrs Chambers' misconduct was not fundamentally incompatible with remaining on the register. This panel has no new information to alter that position. In light of her clear statement that she does not wish to return to nursing and her intention to retire, the panel concluded that allowing her registration to lapse would be a more appropriate and proportionate response. Striking her off would be unnecessarily harsh, particularly as she is voluntarily leaving the profession. The panel therefore found that a striking off order would be entirely disproportionate and is not a sanction that can be imposed in this case.

The current suspension order will be allowed to lapse with impairment at the end of the current period of imposition, namely the end of 18 December 2024 in accordance with Article 30(1).

This will be confirmed to Mrs Chambers in writing.

That concludes this determination.