

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

**Substantive Order Review Hearing  
Tuesday, 01 October 2024**

Virtual Hearing

**Name of Registrant:** Lynne Roberts

**NMC PIN** 83A2257E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Registered Nurse – Independent/Supplementary prescriber  
RN1: Adult Nursing (October 1986)  
V300 (September 2012)

**Relevant Location:** Cheshire

**Type of case:** Misconduct and Health

**Panel members:** Mark Gower (Chair, lay member)  
Lisa Holcroft (Registrant member)  
Gary Trundell (Lay member)

**Legal Assessor:** Mark Sullivan

**Hearings Coordinator:** Rebecca Wagner

**Nursing and Midwifery Council:** Represented by Stephen Page, Case Presenter

**Mrs Roberts:** Not present and unrepresented

**Order being reviewed:** Conditions of practice order (12 months)

**Fitness to practise:** Impaired

**Outcome:** Order to lapse upon expiry in accordance with Article 30 (1), namely 9 November 2024

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

The panel was informed at the start of this hearing that Mrs Roberts was not in attendance and that the Notice of Hearing had been sent to her registered email address by secure email on 03 September 2024.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Roberts' representative at the Royal College of Nursing (RCN) on 03 September 2024.

Mr Page, 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). When questioned by the panel, Mr Page noted that the hearing venue changed to virtual on 30 September 2024. He referred the panel to correspondence received by the NMC on 27 September 2024 where Mrs Roberts' representative stated:

*'... I confirm that the registrant will not be attending the review hearing on 1 October, nor will she be represented. No discourtesy is intended by her non-attendance.'*

Mr Page advised the panel, for completeness, he had confirmed with NMC reception that Mrs Roberts had not arrived at the venue to attend the hearing.

The panel accepted the advice of the legal assessor.

The panel took into account the correspondence received by the NMC dated 27 September 2024, and, among other things, information about Mrs Roberts'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 Roberts 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 Roberts**

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

Mr Page submitted that Mrs Roberts had voluntarily absented herself. He referred the panel to the correspondence between Mrs Roberts representative and NMC Case Officer on 23 August 2024, where Ms Freeman:

- Confirmed Mrs Roberts '*will not be attending the review hearing either in person or virtually*';
- Confirmed Mrs Roberts will not be represented at the hearing; and
- Advised written submissions would be provided on Mrs Roberts behalf.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Roberts. In reaching this decision, the panel has considered the submissions of Mr Page, the representations made on Mrs Roberts' behalf, 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 Roberts;
- Mrs Roberts' representative has provided the panel with written submissions dated 27 September 2024;
- Mrs Roberts representative has informed the NMC that she has received the Notice of Hearing and confirmed 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 case.

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

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

At the outset of the hearing, Mr Page made a request that those elements relating specifically to Mrs Roberts [PRIVATE] in this case be held in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

[PRIVATE].

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 hold those parts of the hearing relating to [PRIVATE] in private.

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

The panel found that Mrs Roberts Fitness to Practise is impaired but determined to allow the current conditions of practice order to lapse upon expiry on 9 November 2024.

This is the fifth review of a substantive order originally imposed as a suspension order for a period of six months by a Fitness to Practise Committee panel on 20 May 2020. This was reviewed on 18 November 2020, and it was replaced with a conditions of practice order for 12 months. The conditions of practice order was reviewed on 10 November 2021 and 04 November 2022 where the conditions of practice order was varied and continued for a further 12 months. The conditions of practice order was again reviewed on 04 October 2023 where the conditions of practice order was extended for a further 12 months.

The current order is due to expire at the end of 09 November 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. On 17 April 2016, inappropriately prescribed Temazepam to patient C who had no clinical condition requiring this medication and;*

*(a) Did not record that you were prescribing Temazepam in patient C's records.*

*(b) Did not record why you were prescribing Temazepam to patient C.*

*2. On 22 April 2016, inappropriately prescribed Zopiclone to patient B who had no clinical condition requiring this medication and;*

*(a) Did not record that you were prescribing Zopiclone in patient B's records.*

*(b) Did not record why you were prescribing Zopiclone to patient B.*

*3. On 18 June 2016, inappropriately prescribed Diazepam to patient D who had no clinical condition requiring this medication.*

*4. On 18 June 2016, inappropriately prescribed Zopiclone to patient E who had no clinical condition requiring this medication and;*

*(a) Did not record that you were prescribing Zopiclone in patient E's records.*

*(b) Did not record why you were prescribing Zopiclone to patient E.*

*5. On 9 July 2016, did not record that you were prescribing Oramorph in patient F's records, and;*

- (a) Did not record why you were prescribing Oramorph to patient F.*
6. *On 23 July 2016, inappropriately prescribed Zopiclone to patient G who was awaiting hospital admission via ambulance, and;*
- (a) Did not record why you were prescribing Zopiclone to patient G.*
7. *On 18 September 2016, inappropriately prescribed Co-Codamol to patient H who had no clinical condition requiring this medication, and;*
- (a) Did not record that you were prescribing Co-Codamol in patient H's records.*
- (b) Did not record why you were prescribing Co-Codamol to patient H.*
8. *On 7 October 2016 completed a prescription for patient L with Glucogen Hypokit Tablets and Zopiclone on it when patient L was not seen by you on this date.*
9. *On 22 October 2016, did not record that you were prescribing Amitriptyline and Zopiclone in patient I's records, and;*
- (a) Did not record why you were prescribing Amitriptyline and Zopiclone to patient I.*
10. *On 29 October 2016, did not record that you were prescribing Zopiclone in patient J's records, and;*
- (a) Did not record why you were prescribing Zopiclone to patient J.*
11. *On 29 October 2016, did not record that you were prescribing Co-Codamol in patient K's records, and;*

*(a) Did not record why you were prescribing Co-Codamol to patient K.*

*12. On 29 October 2016, inappropriately prescribed Amitriptyline and Zopiclone to patient T who had no clinical condition requiring this medication and;*

*(a) Did not record why you were prescribing Amitriptyline and Zopiclone to patient T.*

*13. On 7 January 2017 completed a prescription for patient A with Diazepam, Zopiclone and Citalopram on it when patient A was not seen by you on this date.*

*14. On 7 January 2017, inappropriately prescribed Nitrazepam to patient R who had no clinical condition requiring Nitrazepam, and;*

*(a) Did not record that you were prescribing Nitrazepam in patient R's records.*

*(b) Did not record why you were prescribing Nitrazepam to patient R.*

*15. On 7 January 2017, inappropriately prescribed Buscopan, Zopiclone and Codeine to patient U who had no clinical condition requiring this medication.*

*16. On 16 January 2017, did not record that you were prescribing Trimethoprim and Zopiclone to patient M in her records, and;*

*(a) Did not record why you were prescribing Trimethoprim and Zopiclone to patient M.*

*17. On 15 January 2017, inappropriately prescribed Zopiclone to patient N who had no clinical condition requiring this medication, and;*

*(a) Did not record that you were prescribing Zopiclone in patient N's records.*

*(b) Did not record why you were prescribing Zopiclone to patient N.*

*18. On 11 February 2017, inappropriately prescribed Zopiclone and Diazepam to patient O who had no clinical condition requiring this medication, and;*

*(a) Did not record that you were prescribing Zopiclone and Diazepam in patient O's records.*

*(b) Did not record why you were prescribing Zopiclone and Diazepam to patient O.*

*19. On 11 February 2017, inappropriately prescribed Zopiclone to patient P who had no clinical condition requiring this medication, and;*

*(a) Did not record that you were prescribing Zopiclone in patient P's records.*

*(b) Did not record why you were prescribing Zopiclone to patient P.*

*20. On 15 February 2017, did not record that you were prescribing Zopiclone and Simvastatin to patient Q in patient Q's records, and;*

*(a) Did not record why you were prescribing Zopiclone and Simvastatin to patient Q.*

*21. On 18 March 2017, inappropriately prescribed Zopiclone to patient S who had no clinical condition requiring Zopiclone.*

*22. On 3 June 2017, removed a box of Diazepam tablets from patient A's house, and;*

*(a) Did not seek his or his wife's consent,*

*(b) Did not complete a stock control sheet,*



- (c) Did not record the reason for the Diazepam being removed,*
- (d) Did not record which chemist the Diazepam was being returned to,*
- (e) Did not sign for the Diazepam being returned.*

*23. Failed to notify the NMC of the police conditional caution you received on 14 December 2018.*

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

*That you, a registered nurse,*  
*24. [PRIVATE].*

*25. A[PRIVATE].*

*[PRIVATE].*

*'Schedule 1 (Private – not for publication):*  
*...'*

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

*'The panel determined that it had very limited information from Mrs Roberts since the order was last reviewed and no material change to undermine the finding of impairment. She has not been able to comply with any of the conditions. As such, as is accepted by the RCN on her behalf, she remains currently impaired. The panel noted the emails between Mrs Roberts and an agency regarding securing a registered nursing role. However, it appears that the emails were from one agency only and do not evidence a proactive approach to seek employment. The panel noted however that it does not have sight of the overall context of this conversation.*

*In its consideration of whether Mrs Roberts has taken steps to strengthen her practice, the panel took into account her difficulties in obtaining nursing roles. The panel also acknowledged that in Mrs Roberts' reflection, that she mentioned keeping up-to-date with 'nursing news and teachings, mostly via a subscription to RCNI' and 'studied numerous topics (although not formally)'. The panel was of the view that whilst this is positive, there are no certified courses or evidence that she could prescribe safely.*

*Furthermore, the panel had not seen any up-to-date references, and whilst it appreciated that Mrs Roberts' manager was not available, the panel noted that it had no evidence before it of proactive efforts being made by Mrs Roberts to obtain an updated reference. Moreover, as Mrs Roberts has not been able to secure a nursing role, the panel has not seen evidence before it that Mrs Roberts can work under pressure in a clinical setting. The panel noted that its overarching objective is to protect the public, maintain public confidence and declare and uphold proper standards of conduct and behaviour, and it has not seen sufficient information to demonstrate that the risk has been properly addressed.*

...

*For these reasons, the panel finds that Mrs Roberts' fitness to practise remains impaired on public protection and public interest grounds.*

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

*'The panel determined that the current conditions would address the failings highlighted in this case. The panel accepted that Mrs Roberts has been unable to comply with conditions of practice due to their current employment status but is engaging with the NMC and is willing to comply with any conditions imposed.*

*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 Roberts' case because there has been no material change,*

*as she has not secured a nursing role and therefore cannot demonstrate any compliance with the conditions of practice.*

...

*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 not prescribe medication for a period of 12 months.*
- 2. You must ensure that you have fortnightly meetings with a band 6 nurse or above (employed from the same organisation) to discuss any concerns arising relating to your clinical caseload, adherence to policies in relation to medication administration and record keeping, [PRIVATE] and any other issues that may arise; and produce a final report from the band 6 nurse for your next review hearing.*
- 3. You must keep us informed about anywhere you are working by:
  - a. Telling your case officer within seven days of accepting or leaving any employment.*
  - b. Giving your case officer your employer's contact details.**
- 4. You must keep us informed about anywhere you are studying by:*



The panel has considered carefully whether Mrs Roberts fitness to practice remains impaired. Whilst there is no statutory definition of fitness to practice, the NMC has defined fitness to practice as a registrant's suitability to remain on the register without restriction. The NMC guidance DMA-1 sets out the question that will help decide whether a professional's fitness to practise is impaired which is:

*“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”*

The panel has had regard to all of the documentation before it, including the NMC bundle and the correspondence between Mrs Roberts representative and the NMC Case Officer dated 06 June 2024, 07 August 2024 and 23 August 2024.

The panel has taken account of the submissions made by Mr Page on behalf of the NMC. Mr Page outlined the background of the case and referred the panel to the NMC bundle and correspondence between Ms Freeman and the NMC Case Officer. He submitted Mrs Roberts remains impaired as she has been unable to comply with the current conditions of practice order currently imposed. Mr Page noted there has been no remediation of the past misconduct and there remains a high risk of repetition. He invited the panel to consider an extension of a 12 month period for the current conditions of practice order imposed.

The panel also had regard to Mrs Roberts written representations by her representatives. In submission, they stated Mrs Roberts has continued to be engaged with the proceedings and noted she has not worked as a registered nurse since the last review. Mrs Roberts has conceded that her Fitness to Practise remains impaired as she has not worked as a registered nurse and therefore cannot comply with the conditions imposed. Mrs Roberts stated her desire to return to the healthcare profession and requested the panel to consider a further extension of 12 months for the current conditions of practice order to be imposed.

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 Roberts' fitness to practise remains impaired.

The panel has been provided with limited new information.

The panel noted that the last reviewing panel found that Mrs Roberts had developing insight. At this hearing the panel found Mrs Roberts had developed no further insight or demonstrated improvement from the previous review hearing. It considered Mrs Roberts reflective piece and noted that she could have provided a more detailed reflective piece to demonstrate further developing insight.

The panel determined that it had very limited information from Mrs Roberts since the order was last reviewed and no material change to undermine the finding of impairment. She has not been able to comply with any of the conditions. As such, as is accepted by the RCN on her behalf, she remains currently impaired. The panel noted the emails between Mrs Roberts and an agency relating to nursing roles. The panel acknowledged the emails between Mrs Roberts and employment agents in that she is responding to adverts for full-time roles where she is only able to work for one day, between 17 October 2023 and September 2024.

In its consideration of whether Mrs Roberts has taken steps to strengthen her practice.

The panel noted:

- No evidence of training certificates or online courses relevant to her clinical practice;
- No evidence to support any currency of online learning;
- She is currently employed, however it is not within the healthcare profession;
- She continues to search for work as a registered nurse but for only one day per week;
- No up-to-date references have been provided.

In light of the above, the panel considered Mrs Roberts has taken limited steps in strengthening her practice.

Today's panel has received the following information from Mrs Roberts' representative:

- Reflection from Mrs Roberts, undated;
- Email exchanges between Mrs Roberts and Nursing Agency, dated 17 October 2023, 04 December 2023, 11 September 2024 and 22 September 2024.

The last reviewing panel determined that Mrs Roberts remained at risk of repeating the matters of the kind found proved.

In light of the lack of insight, any evidence for any meaningful remediation, or strengthening of practice, the panel determined that Mrs Roberts remains at risk of repeating the 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 Roberts' fitness to practise remains impaired.

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

Having found Mrs Roberts fitness to practise currently impaired, the panel then considered what, if any, action it should take to the order. The panel noted that its powers are set out in Article 30(1) 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 considered a caution order would be inappropriate, on the basis it has found an ongoing risk to repeat the matters of the kind found proved.

The panel acknowledged Mrs Roberts' has been subject to conditions of practice orders for the past four years. It was of the view that, as these proceedings have been ongoing for seven years and there has been insufficient evidence of progress, it is unlikely that she will be able to return to safe and effective practice within a reasonable period.

The panel acknowledged Mrs Roberts representatives requested for the conditions of practice to be extended and that if the panel was considering a more serious sanction that there should be an adjournment. In Mrs Roberts representatives written on-table submissions, they stated that:

*'[...] wholly disproportionate for Mrs Roberts' conditions of practice order to be replaced with a suspension order, or removal from the register, at this stage.*

*[...]*

*Should the panel be minded to consider a higher level of sanction, we would request that the review should be adjourned without a change in sanction in order to enable the registrant to address the panel comprehensively at a further review hearing.*

*[...]*

The panel noted Mrs Roberts and her representatives are fully aware of the options available to the panel at this hearing but have chosen not to attend.

The panel determined that Mrs Roberts had ample opportunity over the last four years to demonstrate her actions to address the issues identified in the original hearing and subsequent reviews. It is accepted Mrs Roberts has made some effort albeit very restrictive to gain employment with the current restrictions in place. The panel considered the information before it, and noted Mrs Roberts has been away from clinical practice for seven years and has had difficulty obtaining employment in this time. The panel recognised Mrs Robert's desire to return to practice, however she has not demonstrated the steps undertaken to return to practice. The panel considered that Mrs Roberts has:

- Not completed any training or online courses relevant to her clinical practice;
- Not undertaken an NMC-approved return to practice programme; and
- Not continued working in the health care profession.



The panel took into account the NMC's guidance 'Removal from the register when there is a substantive order in place' (Reference: REV-3h), which was last updated on 30 August 2024. This guidance assists substantive order review panels in deciding what action to take where:

- *'a professional hasn't addressed outstanding fitness to practise concerns, and*
- *continuing/imposing a conditions of practice order or suspension order is unlikely to mean the professional will return to safe unrestricted practice within a reasonable period of time.*

[...]

*While Suspension Orders and Conditions of Practice Orders can be varied or extended, they are not intended to exist indefinitely. In time the professional must be allowed to practise without restriction or they must leave the register. It is neither in the interests of the public nor the professional's own interests that they are kept in limbo [Annon v NMC [2017] EWHC 1879 (Admin)].'*

The panel is satisfied that there is no reasonable prospect of Mrs Roberts returning to safe and effective practice within a reasonable period, and as a result, the appropriate action is to allow the order to lapse upon its expiry with a finding of continuing impairment.

The panel took note of Mrs Roberts reflective statement, where she stated:

*'[...] Whist I understand and support the reasons for this order, it feels like I am reliving the situation constantly and telling more and more people about my failings and mistakes.*

[...]

The panel determined that this outcome would provide Mrs Roberts with a period of reflection away from the control of an order. The panel hopes that this will assist her to focus on her future, given the lack of any progress to date, and develop her insight, undertake any necessary training and return to practice programmes, provide deeper reflections and any supervisory letters to support any future application, when and if she seeks to show she is ready to be readmitted to the register, unimpaired. This is particularly

so due to the length of time Mrs Roberts has already had to comply with previous panels' requests.

The conditions of practice order will be allowed to lapse at the end of the current period of imposition, namely 09 November 2024 in accordance with Article 30(1) of the Order. Mrs Robert's Fitness to Practice will be marked as impaired, she will be removed from the register, and unable to practice as a registered nurse. Should Mrs Roberts seek readmission to the register, she will be required to demonstrate she is no longer impaired.

This will be confirmed to Mrs Roberts in writing.

That concludes this determination.