

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

**Substantive Order Review Meeting
Wednesday, 25 September 2024**

Virtual Meeting

Name of Registrant: Louise Maxwell-Brierley

NMC PIN: 91C0141E

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing (February 1994)

Relevant Location: Nottinghamshire

Type of case: Conviction and Misconduct

Panel members: Suzy Ashworth (Chair, Lay member)
Richard Luck (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: John Caudle

Hearings Coordinator: Elizabeth Fagbo

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order extended (6 months) to come into effect on 9 November 2024 in accordance with Article 30 (1)**

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 Maxwell-Brierley's registered email address by secure email on 19 August 2024.

Further, the panel noted that the Notice of Meeting was also sent to Mrs Maxwell-Brierley's representative at the Royal College of Nursing (RCN) on 19 August 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 23 September 2024 and inviting Mrs Maxwell-Brierley 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 Maxwell-Brierley 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 extend the conditions of practice order for a period of six months. This order will come into effect at the end of 9 November 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the seventh review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 8 February 2021. This order was reviewed on 5 July 2021 when a reviewing panel extended the suspension order for a period of six months. The suspension order was reviewed again on 23 December 2021 and 30 June 2022 and on each occasion the panel extended the substantive suspension order for a period of six months. On 20 December 2022, the reviewing panel decided to impose a suspension order for a period of three months. The order was reviewed again on 30 March 2023 where the panel replaced the suspension order with a substantive conditions of practice order for 12 months. The conditions of

practice order was reviewed on 2 April 2024 where the panel confirmed the order for a period of 6 months.

The current order is due to expire at the end of 9 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 10 November 2016 were convicted at Mansfield Magistrates' Court of one offence of failing to provide a specimen of breath without a reasonable excuse contrary to section 7(6) of the Road Traffic Act and 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

2) On 1 September 2017 were convicted at Nottingham Magistrates' Court of;

a) One offence of driving a motor vehicle while disqualified from holding or obtaining a driving licence contrary to section 103(1)(b) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Acts 1988.

b) One offence of driving a motor vehicle whilst over the prescribed limit for alcohol contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

c) One offence of using a motor vehicle without third party insurance contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. 16 AND in light of the above, your fitness to practise is impaired by reason of your convictions.

3) On 1 November 2018;

a) Did not disclose your interim conditions of practice to Colleague A.

b) Told Colleague A that;

- i) “Your interim conditions of practice order was related to your convictions” or words to that effect.
- ii) ii) “There were no restrictions on your practice” or words to that effect.’

The sixth panel determined the following with regard to impairment:

‘The panel had no new information from Mrs Maxwell-Brierley demonstrating further insight, further training or professional development that would represent a significant change in her fitness to practise. Therefore, the panel determined that Mrs Maxwell-Brierley is likely still liable to repeat matters of the kind found proved. Accordingly, the panel decided that a finding of continuing impairment remains necessary on the ground of public protection.

The panel bore in mind that its primary function 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.

Further, the panel noted that the NMC and the RCN both invited the panel to confirm and continue the existing conditions of practice order for a period of 3 months. It also considered the RCN’s submission that Mrs Maxwell-Brierley no longer wants to practice nursing and is seeking a removal from the register.

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

The sixth panel determined the following with regard to sanction:

'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 Maxwell-Brierley'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 Maxwell-Brierley'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 Maxwell-Brierley'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 was of the view that the existing conditions of practice order is 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 Maxwell-Brierley'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 9 May 2024. 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 limit your nursing practice to a single substantive employer.*
- 2. You must not be the sole nurse on any shift.*
- 3. You must work with your line manager, mentor or supervisor to create a personal development plan (PDP).*

You must:

- a) Send your case officer a copy of your PDP before any review hearing.*
 - b) Meet with your line manager, mentor or supervisor at least once a month to discuss your progress towards achieving the aims set out in your PDP.*
 - c) Send your case officer a report from your line manager, mentor or supervisor before any review hearing. This report must show your progress towards achieving the aims set out in your PDP.*
- 4. 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.**
 - 5. 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.*
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.*
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 order is confirmed for a period of 6 months to allow time for Mrs Maxwell-Brierley's application for Agreed Removal to be fully considered.

The conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 9 May 2024 in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Maxwell-Brierley's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It also took into account a letter from the RCN, dated 19 September 2024, containing the following written representations:

'...[PRIVATE]...'

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 Maxwell-Brierley's fitness to practise remains impaired.

The panel noted that the last reviewing panel did not receive any new information from Mrs Maxwell-Brierley demonstrating further insight, training or professional development that would represent a significant change in her fitness to practise. Therefore, it concluded that that Mrs Maxwell-Brierley was likely still liable to repeat matters of the kind found proved and determined that a finding of continuing impairment was necessary on public protection and public interest grounds.

Today's reviewing panel also had no new information before it to demonstrate that Mrs Maxwell-Brierley had developed any further insight, or engaged in any training or professional development since the order was last reviewed. Therefore, the panel determined that Mrs Maxwell-Brierley is still liable to repeat matters of the kind found

proved without suitable safeguards being in place. Accordingly, the panel decided that a finding of continuing impairment remains 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 conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required to maintain and uphold proper standards of conduct and performance as there was no information before the panel to indicate that Mrs Maxwell-Brierley's has addressed the identified risk or complied with the conditions.

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

Decision and reasons on sanction

Having found Mrs Maxwell-Brierley 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 Maxwell-Brierley'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 Maxwell-Brierley'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 a conditions of practice order on Mrs Maxwell-Brierley's registration would still be a sufficient and appropriate response. The panel noted that any conditions imposed must be proportionate, measurable and workable.

Further, the panel noted that the RCN invited the panel to confirm and continue the existing conditions of practice order for a period of three to six months. It also considered the RCN's submission that Mrs Maxwell-Brierley no longer wants to practice nursing and is seeking a removal from the register. It noted that the RCN are currently finalising the application for agreed removal. The panel was of the view that the current conditions of practice order would continue to address the public interest in this case and uphold proper professional standards, as there is nothing to suggest that there has been any change in the circumstances of the case. Therefore, the panel determined that the current conditions of practice order is appropriate and addresses the failings highlighted in this case.

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 Maxwell-Brierley's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to extend the 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 9 November 2024. 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 limit your nursing practice to a single substantive employer.*

2. *You must not be the sole nurse on any shift.*

3. *You must work with your line manager, mentor or supervisor to create a personal development plan (PDP).*

You must:

- d) *Send your case officer a copy of your PDP before any review hearing.*
 - e) *Meet with your line manager, mentor or supervisor at least once a month to discuss your progress towards achieving the aims set out in your PDP.*
 - f) *Send your case officer a report from your line manager, mentor or supervisor before any review hearing. This report must show your progress towards achieving the aims set out in your PDP.*
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4. *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.*

 5. *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.*

 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).*

