

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

**Substantive Order Review Hearing
Tuesday 4 February 2025**

Name of Registrant:	Matthew Waller
NMC PIN	99D1462E
Part(s) of the register:	Registered Nurse – Sub part 1 RNA: Adult Nursing – April 2002
Relevant Location:	Kent and Canterbury
Type of case:	Misconduct/Conviction
Panel members:	Richard Youds (Chair lay member) Tanya Tordoff (Registrant member) Sarah Fleming (Registrant member)
Legal Assessor:	Melissa Harrison
Hearings Coordinator:	Adaobi Ibuaka
Nursing and Midwifery Council:	Represented by Nawazish Choudhury, Case Presenter
Mr Waller:	Present and unrepresented
Order being reviewed:	Conditions of practice order (3 years)
Fitness to practise:	Not Impaired
Outcome:	Order to lapse upon expiry in accordance with Article 30 (1), namely 22 March 2025

Decision and reasons on review of the substantive order

The panel decided to let the conditions of practice order lapse.

This will come into effect at the end of 22 March 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 3 years by a Fitness to Practise Committee panel on 5 February 2021.

The current order is due to expire at the end of 22 March 2025.

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

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

'That you, a registered nurse:

1. *On 15 February 2013 in the Crown Court at Canterbury were convicted of:*

1.1. *Theft x 3*

1.2. *Possession of a Class C Controlled Drug x 2*

1.3. *Make a False Prescription for a Scheduled Drug x 2*

2. *On 22 February 2013 were sentenced to 15 months Imprisonment Suspended for 2 years with 200 hours UPW, Supervision for 12 months and 6 sessions of Education, Training and Employment.*

And in light of the above, your fitness to practise is impaired by reason of your conviction.'

The previous panel determined the following with regard to restoring you to the Register:

'The panel considered your application for restoration to the Register very carefully. It has decided to allow the application with a conditions of practice order, subject to your successful completion of a return to practice course.

In reaching its decision, the panel was mindful of its statutory duty to protect the public as well as maintain public confidence in the reputation of the professions, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse.

The panel had regard to all of the evidence before it which included written references, the evidence of two witnesses called on your behalf and your oral evidence.

The panel found Dr 1 to be a very credible witness. She was thorough in her evidence and was able to comment on your performance, honesty and integrity after having worked closely with you for six years.

The panel was of the view that Mr 2 was also a very helpful witness. He has known you since 2014 and was able to comment on your performance and your insight into your past behaviour.

The panel found you to be persuasive and credible in your oral evidence and considered that you have demonstrated significant insight into your past behaviour. The panel was of the view that you were an honest witness and demonstrated genuine remorse.

The panel had regard to the circumstances surrounding the striking off order and considered that the behaviour which led to your striking off order was serious and breached fundamental tenets of the profession. The panel noted that your actions compromised the reputation of the profession and undermined confidence in it. Notwithstanding the fact the substantive panel found that your previous conduct was serious, this panel considered that you have demonstrated that you are a fit and proper person to return to practice as a nurse. You demonstrated sufficient

insight into your failings, and you were able to articulate how you would act differently if faced with similar circumstances in the future. You demonstrated genuine remorse for your past behaviour and reassured the panel that this would not be repeated in the future. The panel was mindful of the significant time that has elapsed since your name was removed from the Register. It noted that you started working as a HCA before your substantive hearing in 2014 and you have continued to work without concern for over six years.

The panel was encouraged by the progress you have made, both personally and professionally, and by the positive references and evidence provided by senior members of the Trust.

The panel had regard to the circumstances in which the charges arose, namely in an acute ward setting. It noted that you said that you are not suited to working in an acute ward setting due to the busy and stressful environment. You said that you want to remain employed at the Trust and that you would seek employment as a registered nurse within sexual health services where you would not be required to work in a ward setting. The panel was of the view that your name should be restored to the Register but that a conditions of practice order is necessary in the meantime to protect the public and to address any public interest considerations. It considered that it would also be in your own interests. The panel was of the view that a well-informed member of the public would accept that you have remediated and that it would be appropriate to allow you a second chance and to re-join the Register under a conditions of practice order. The panel determined that your practice should be restricted to the Trust at this stage in your return to nursing.

The panel accordingly directs the Registrar under Article 33(7) and in accordance with Article 33(6) of the Order, to restore your name to the register subject to you fulfilling the specific conditions of practice as to additional education, training and experience as the Council has specified under Article 19(3) of the Order. For this to happen, the panel directs that you must successfully complete and pass a Return to Practice Programme and pay the prescribed fee.'

The previous panel determined the following with regard to sanction:

'Upon restoration of your name to the Register your registration will be subject to a conditions of practice order in the following terms:

- 1. You must restrict your practice to Kent Community Health NHS Foundation Trust.*
- 2. You must inform the NMC within 7 days of any other nursing appointment you accept, paid or unpaid, within in the Trust.*
- 3. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*
- 4. You must within 7 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
- 5. You must within 7 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
- 6. You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (5) above, to them:*
 - a. Any part of the Trust where you are appointed as a registered nurse.*
 - b. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

The period of this conditions of practice order is for 3 years.'

Decision and reasons on current impairment

The panel has considered carefully whether your 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 practice safely, kindly 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 your on-table bundle. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC and submissions made by you.

Mr Choudhury took the panel through the background of the case and the decisions of the previous panel. Mr Choudhury took the panel through their options to allow the order to end/lapse, or to extend the order, stating the NMC does not seek a more serious order and is neutral.

Mr Choudhury drew the panel's attention to the on-table bundle where you provided a written reflective piece and two written testimonials, highlighting how you continued to meaningfully engage with the NMC process.

Mr Choudhury stated that you are currently working in the NHS community trust as a sexual health and HIV nurse, Mr Choudhury stated your job requires going into patient homes to assist them, and that this shows that you can be trusted as a nurse to work with honesty and integrity which is vital to the nursing profession.

The panel also had regard to your written representations and oral submissions.

You made oral submissions to the panel, stating you appreciated the period of time for which the conditions of practice order has been in place because it helped you come to terms with what it means to be a registered nurse.

You stated that the last two years have set the foundations for you to be able to build upon your knowledge and understand HIV care. You highlighted to the panel that you had undertaken previous mandatory and in-house training and intend to take on the NHIVA course and hope to become a Band 6 senior nurse.

You pointed out to the panel how you have been complying with the conditions of practice order, making references to conditions 4 and 6a, which states that you are required to let the NMC know of any courses you intend to do, furthermore, you stated that you intend to stay at your current Trust, highlighting how you feel supported by your team and enjoy working with them.

You reflected on how your past failings were a '*shameful episode*' of your life, but you have learnt from it and improved, highlighting that you would like to have the conditions of practice order removed so that you could continue to practice and that you intend to progress and be independent and to run an effective clinic with your team.

When asked if there had been any complaints, incident or referrals since the previous hearing, you stated '*no, nothing*'. You also stated that you have a very supportive team at work, and that you regularly have one-to-one meetings with your manager, mostly about work but can also discuss any issues that may arise. You further stated that within your Trust they have mechanisms in place such as wellness champions and talking therapies which are readily available to access by staff within the Trust. You stated that although you have not needed to use these services yet, you do appreciate the support is there should you ever need it.

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 your fitness to practise remains impaired.

The panel noted that the previous panel found that you had developing insight. Today's panel were of the view you had fully developed insight taking note of your oral submissions, extensive reflective piece as well as two very positive testimonials.

The panel noted that in your reflective piece you had demonstrated a high level of remorse for your previous failings. Highlighting how you understood the impact of your actions and the effect it had on others. The panel took note of your reflective statement where you stated:

"... I know I made some terrible and almost unforgivable mistakes in the past ... I will always act with honesty and integrity at all times and be aware of the responsibilities on me to not cause upset, distress or hostility through my words and my actions. I will always act as a role model of professional behaviour for junior and student members of staff and use all forms of communication responsibly."

The panel also made note of how well you have complied with the conditions of practice order, as you have remained employed by the Kent Community Health NHS Foundation Trust, making reference to the testimonials from the two professionals who work alongside you and your own submissions as evidence of this, the panel also highlighted how you have meaningfully engaged with the NMC throughout the process, keeping them up to date with any training you have undertaken or intend to undertake.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you have worked in a care capacity for six years before retraining by completing the return to nursing course, as well as other training. The panel were of the opinion that this is evidence of a high level of remorse and willingness to do better. The panel had sight of your written reflective piece where you stated:

"I have developed and my practice has improved to where I am an effective healthcare practitioner."

The panel were of the opinion that you had built upon the previous practice and had shown dedication to the profession, noting that, you have not had any further incidents or referrals

since the previous hearing, instead, you have progressed further as a registered nurse and now aspire to progressing further and hopefully become a Band 6 nurse.

The previous panel determined that you were not liable to repeat matters of the kind found proved and this was also the conclusion of today's panel. The panel went on to consider whether you could practice kindly, safely and professionally. The panel highlighted your reflective statement where you stated that:

"A patient I saw in clinic this morning thanked Matt for saving his life. He is newly diagnosed HIV +ve and has taken the diagnosis very badly. He was feeling suicidal and was about to overdose on Paracetamol but had just received a very long supportive text from Matt Waller which made him stop. He then flushed the tables away. He said to Matt this morning you have saved a life."

This demonstrated to the panel, that you could practice kindly, and they also made reference to the testimonials by your colleagues at the Trust which stated:

"His calm and non-judgemental approach is one of his greatest strengths, enabling him to build strong relationships with colleagues and patients. He consistently fosters a supportive and safe environment, which has had a noticeable positive impact on both team morale and patient care."

Also:

"...I have found him to be incredibly supportive, approachable , understandable and just lovely in general... he is great at this role"

This further demonstrated to the panel that you could practice safely and professionally as a nurse.

The panel noted that the mechanisms within your Trust that were available to you if you ever needed, and the fact that you had not required the help as of yet, highlighted that there has been significant improvement and demonstrates that you are in a different chapter of your life. The panel is of the opinion there is no longer a risk of patients being

put at an unwarranted risk of harm, and that you are not liable to bring the profession into disrepute or breach the fundamental tenets of the profession and not act dishonestly.

In light of this, this panel determined that you are not liable to repeat matters of the kind found proved in your previous fitness to practice substantive hearing. The panel therefore decided that a finding of continuing impairment is not 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 not required.

For these reasons, the panel finds that, although your fitness to practise was impaired at the time of the incidents, given all of the above, your fitness to practise is not currently impaired.

In accordance with Article 30(1), the substantive conditions of practice order will lapse upon expiry, namely the end of 22 March 2025.

This will be confirmed to you in writing.

That concludes this determination.