

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

**Substantive Order Review Hearing  
Monday 6 January 2025**

Virtual Hearing

**Name of Registrant:** **Stephen Maguithi**

**NMC PIN** 06H2869E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
RNA: Adult Nurse – 21 September 2006

**Relevant Location:** Windsor and Maidenhead

**Type of case:** Misconduct

**Panel members:** Adrian Ward (Chair lay member)  
Kiran Musgrave (Lay member)  
Tanya Tordoff (Registrant member)

**Legal Assessor:** Gillian Hawken

**Hearings Coordinator:** Adaobi Ibuaka

**Nursing and Midwifery Council:** Represented by Shaun McPhee, Case Presenter

**Mr Maguithi:** Not present and not represented

**Order being reviewed:** Conditions of practice order (9 months)

**Fitness to practise:** Impaired

**Outcome:** **Conditions of practice order (6 months)  
to come into effect at the end of 8 February 2025 in  
accordance with Article 30 (1)**

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

The panel was informed at the start of this hearing that Mr Maguithi was not in attendance and that the Notice of Hearing had been sent to Mr Maguithi's registered email address by secure email on 09 December 2024.

Mr McPhee, 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, including instructions on how to join and, amongst other things, information about Mr Maguithi's right to attend, be represented and call evidence, as well as the panel's power to proceed in their absence.

In the light of all of the information available, the panel was satisfied that Mr Maguithi 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 Mr Maguithi.**

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

Mr McPhee submitted that there had been no engagement at all by Mr Maguithi with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure their attendance on some future occasion.

The panel accepted the advice of the legal assessor, including in relation to Rule 21 (Proceeding in absence) and Rule 32 (Adjournments).

The panel had regard to a brief email from Mr Maguithi dated 3 January 2025 in which they stated that they “*might not be able to attend*” today’s review hearing and suggested that rescheduling the hearing to a date for some time in February will be “*more convenient*” to them.

The panel has decided to proceed in the absence of Mr Maguithi. In reaching this decision, the panel has considered the submissions of Mr McPhee, and the advice of the legal assessor. It has had particular regard to *R v Jones [2003] 1 AC 1* and *General Medical Council v Adeogba [2016] EWCA Civ 162* and to the overall interests of justice and fairness to all parties. It noted that:

- Although Mr Maguithi appears to have suggested that a different date for today’s review would be more convenient to them, the panel was of the view that this request lacked clarity and it did not assure the panel that adjournment would secure their attendance at a later date.
- There has been minimal engagement with the NMC.
- The current conditions of practice order expires at the end of 8 February 2025 and it will be difficult for the NMC to re-list this matter and ensure Mr Maguithi’s attendance before this date.

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

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

The panel decided to extend the current conditions of practice order for a further 6 months.

This order will come into effect at the end of 8 February 2025 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 originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 3 August 2023.

This was reviewed on 9 May 2024 and where the conditions of practice order was varied and extended for a period of 9 months.

The current order is due to expire at the end of 8 February 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 a nightshift between 1st and 2nd March 2020;*

*a. Slept whilst on duty,*

*[...]*

*2. On a nightshift between 2nd and 3rd March 2020;*

*a. Slept whilst on duty,*

*[...]*

*d. Left the drugs room unlocked,*

*e. Left the drugs trolley unlocked,*

*f. Stored resident medication in pots before the medication was due to be administered,*

*g. Signed MAR charts of residents to show that required medication had been administered, when it had not been.*

*[...]*

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

*Charges 2(d), 2(e) and 2(f) were found proved by your admission.’*

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

*'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 original panel found that you had limited insight. At this hearing the panel noted that you demonstrated an understanding of how your actions put the patient at a risk of harm and you demonstrated some understanding of why what you did was wrong.*

*When questioned during the course of this hearing about how you would handle the situation differently in the future, you were able to provide some answers. The panel concluded, on the basis of today's hearing, that you have developing insight.*

*In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the relevant training course you have undertaken as required by your conditions of practice order, and the reflective piece written by you addressing how you would focus on patient and medication safety.*

*The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel has heard and received new information of what has taken place since the substantive hearing but considered that within your reflective piece there is an absence of insight into your failure to maintain professional responsibilities. The panel acknowledged that you say you will now place importance on patient safety and found your completed training encouraging but you were unable to demonstrate how your nursing practice will be safer. The panel concluded that you have started to take steps towards remediation. The panel determined that your testimonial evidence is limited albeit the panel acknowledged that this may be as you have not worked recently as a nurse. In light of all of these circumstances, this panel determined that there is a real risk of you repeating*

*matters of the kind found proved. The panel therefore decided that a finding of current impairment is necessary on the ground of public protection.*

*However, the panel did not consider that a finding of current impairment is necessary in the wider public interest. The panel considered that a fair minded and reasonable member of the public would recognise the steps you have taken to strengthen your practice against a background of 14 years of unblemished practice prior to the matters giving rise to the charges. The panel was satisfied that the steps taken in these proceedings have been sufficient to satisfy the NMC's duty to declare and uphold the standards and to regulate the profession.*

*For these reasons, the panel finds that your fitness to practise remains impaired.'*

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

*'The panel next considered whether a conditions of practice order on your registration would still be a sufficient 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 accepted that you have been unable to comply with conditions of practice due to your current employment status but are engaging with the NMC and are willing to comply with any conditions imposed.*

*The panel was of the view that a varied conditions of practice order is sufficient to protect the public. In this case, there are conditions that 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 or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case.*

Accordingly, the panel determined, pursuant to Article 30(2) to vary the current conditions of practice order and extend it for a period of nine months, which will come into effect immediately. It decided to impose the following conditions which it considered are necessary 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 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.

2). 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.

3). 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 when you are working independently.

4). *You must tell your case officer, within seven days of your becoming aware of:*

- *Any clinical incident you are involved in.*
- *Any investigation started against you.*
- *Any disciplinary proceedings taken against you.*

5). *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*

- *Any agency you apply to or are registered with for work.*
- *Any current or future employer.*
- *Any educational establishment.*
- *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

6). *You will send the NMC a report fourteen days in advance of the next NMC hearing or meeting from each of your line managers, mentors or supervisors (as agreed by your employers) dealing with your general professional conduct and nursing practice.*

7). *You must limit your employment to one substantive employer at any one time, which can include an agency. Any placement by an agency must be for a minimum of 2 months.*

8). *You must ensure that you are supervised by another registered nurse any time that you are dispensing medication, until you are signed off as competent by another registered nurse. You must send your case officer evidence of your competence within 7 days of signed completion.*

9). *You must not be the nurse in charge of a shift.*

*The period of this order is for 9 months which will enable time for you to secure employment and demonstrate that your practice has strengthened.'*



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

The panel has considered carefully whether Mr Maguithi'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 ability to practise safely, kindly and effectively. 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 has taken account of the submissions made by Mr McPhee on behalf of the NMC.

Mr McPhee provided the panel with a background of the case and the findings of the original substantive panel.

Mr McPhee submitted that there is a persuasive burden on Mr Maguithi to demonstrate to the panel that their fitness to practise is no longer impaired. Mr McPhee submitted that Mr Maguithi had failed to satisfy that burden, by not producing new evidence to show their fitness to practise is no longer impaired.

Mr McPhee submitted that Mr Maguithi had not complied with condition 6 of the conditions of practice order, as there were no reports sent to the NMC from Mr Maguithi's line manager, or Mr Maguithi themselves detailing their general professional conduct and nursing practice.

Mr McPhee invited the panel to extend the current conditions of practice order for a further 6 months, as without evidence of remediation, the NMC still regards Mr Maguithi's fitness to practice to be impaired.

Mr McPhee highlighted that a finding of impairment is necessary on public protection grounds and a further 6 months of conditions of practice order would allow Mr Maguithi time to comply with the order.

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 Mr Maguithi's fitness to practise remains impaired.

The panel was mindful of the suggestions made to Mr Maguithi by the last review panel:

*'Any future panel reviewing this case would be assisted by:*

- *Your continued engagement with this process which includes your attendance at the review hearing.*
- *A written reflective piece addressing each of the charges found proved with a focus on what you have done to strengthen your practice and to prevent repetition.*
- *Any workplace references/testimonials that you wish to obtain.'*

The panel noted that the last reviewing panel found that Mr Maguithi had developing insight. At this hearing the panel observed that Mr Maguithi had previously engaged with the NMC and had attended the last review hearing, yet their level of engagement has subsequently reduced and they were not in attendance at today's review hearing.

The panel next considered whether Mr Maguithi had shown any further insight or remorse into their actions. It noted that Mr Maguithi has not provided any additional reflective piece, as suggested by the first reviewing panel, or other evidence to this panel to demonstrate development of insight. This panel concluded that Mr Maguithi's insight remained insufficient.

In its consideration of whether Mr Maguithi has taken steps to strengthen their practice, this panel noted there was no evidence to show whether Mr Maguithi was currently in employment or had in any way taken steps to strengthen their practice.

The last reviewing panel determined that Mr Maguithi was liable to repeat matters of the kind found proved. Today's panel has not heard or received any new information that suggests otherwise. In light of this, this panel determined that Mr Maguithi is 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. However, the panel did not consider that a finding of current impairment is necessary in the wider public interest and determined that, in this case, a finding of continuing impairment on public interest grounds was not required.

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

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

Having found Mr Maguithi'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 public protection concerns identified. 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 Mr Maguithi'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 Mr Maguithi'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 continuing a conditions of practice order on Mr Maguithi'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 the public. In this case, there are conditions could be formulated which would protect patients during the period they are in force.

The panel did go on to consider a suspension order in view of Mr Maguithi's reduced level of engagement and lack of any evidence to suggest developing insight. It noted that conditions of practice are only effective when a registrant is fully engaged with the regulatory process. However, the panel acknowledged that Mr Maguithi has previously engaged with the fitness to practise process and concluded that a suspension order would be disproportionate at the current time. It noted that a future reviewing panel may have a contrary view depending on Mr Maguithi's engagement prior to the next review.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to extend the conditions of practice order for a further period of six months, which will come into effect on the expiry of the current order, namely at the end of 8 February 2025. It decided to confirm 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) Mr Maguithi must keep the NMC informed about anywhere you are working by:

- c) Telling their case officer within seven days of accepting or leaving any employment.
- d) Giving their case officer their employer's contact details.

2). Mr Maguithi must keep the NMC informed about anywhere they are studying by:

- c) Telling their case officer within seven days of accepting any course of study.
- d) Giving their case officer the name and contact details of the organisation offering that course of study.

3). Mr Maguithi must immediately give a copy of these conditions to:

- f) Any organisation or person they work for.
- g) Any agency they apply to or are registered with for work.
- h) Any employers they apply to for work (at the time of application).
- i) Any establishment they apply to (at the time of application), or with which they are already enrolled, for a course of study.
- j) Any current or prospective patients or clients they intend to see or care for when they are working independently.

4). Mr Maguithi must tell their case officer, within seven days of your becoming aware of:

- Any clinical incident you are involved in.
- Any investigation started against them.
- Any disciplinary proceedings taken against them.

5). Mr Maguithi must allow their case officer to share, as necessary, details about their performance, their compliance with and / or progress under these conditions with:

- Any agency they apply to or are registered with for work.
- Any current or future employer.
- Any educational establishment.

- Any other person(s) involved in their retraining and/or supervision required by these conditions.

6). Mr Maguithi will send the NMC a report fourteen days in advance of the next NMC hearing or meeting from each of your line managers, mentors or supervisors (as agreed by your employers) dealing with your general professional conduct and nursing practice.

7). Mr Maguithi must limit their employment to one substantive employer at any one time, which can include an agency. Any placement by an agency must be for a minimum of 2 months.

8). Mr Maguithi must ensure that they are supervised by another registered nurse any time that they are dispensing medication, until they are signed off as competent by another registered nurse. Mr Maguithi must send their case officer evidence of their competence within 7 days of signed completion.

9). Mr Maguithi must not be the nurse in charge of a shift.

The period of this order is for 6 months which will enable Mr Maguithi time to secure employment and demonstrate that their practice has been strengthened.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 8 February 2025 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Mr Maguithi has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Mr Maguithi's continued engagement with this process which includes their attendance at the review hearing.

- A written reflective piece addressing each of the charges found proved with a focus on what Mr Maguithi has done to strengthen their practice and to prevent repetition.
- Any workplace references/testimonials.

This will be confirmed to Mr Maguithi in writing.

That concludes this determination.