Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Consensual Panel Determination
Friday 28 January 2022

Virtual Hearing

Name of registrant:	**Leanne Helena Reid**
NMC PIN:	09I0462S
Part(s) of the register:	Registered Nurse - Adult (September 2012)
Area of registered address:	Alloa
Type of case:	Misconduct
Panel members:	Philip Sayce (Chair, Registrant member) Janet Richards (Registrant member) Tom Ayers (Lay member)
Legal Assessor:	Tim Bradbury
Hearings Coordinator:	Jasmin Sandhu
Nursing and Midwifery Council:	Represented by Assad Badruddin, Case Presenter
Miss Reid:	Not present and not represented
Consensual Panel Determination:	Accepted
Facts proved by admission:	All
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	**Conditions of practice order (3 years)**
Interim order:	**Interim conditions of practice order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Reid was not in attendance and that the Notice of Hearing had been sent to her registered email address by secure encrypted email on 19 January 2022.

The panel also had regard to a telephone note dated 6 January 2022 which states that Miss Reid has waived her notice period.

The panel considered whether notice of this hearing had been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules'). It noted that under the recent amendments made to the Rules during the COVID-19 emergency period, a Notice of Hearing may be sent to a registrant's registered address by recorded delivery and first-class post, or to a suitable email address on the register.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, date and virtual venue of the hearing and, amongst other things, information about Miss Reid's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Badruddin, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Reid has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Reid

The panel next considered whether it should proceed in the absence of Miss Reid. It had regard to Rule 21 and heard the submissions from Mr Badruddin.

Mr Badruddin invited the panel to continue in the absence of Miss Reid. Mr Badruddin referred the panel to the provisional Consensual Panel Determination (CPD) agreement which indicates that Miss Reid is aware of this CPD hearing, she does not wish to attend the hearing, and she is content for it to proceed in her absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Reid. In reaching this decision, the panel has considered the submissions of Mr Badruddin, the provisional CPD agreement which indicates that Miss Reid would not be attending today but is content for the hearing to proceed in her absence, and the advice of the legal assessor. It has had particular regard to Rule 8(6)(c) and was satisfied that Miss Reid has voluntarily absented herself from this hearing.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Miss Reid.

Details of charge (all found proved by admission)

'That you, a registered nurse:

1. *Whilst employed at Marchglen Care Home:*

    a) During a medication count on or around 19 December 2016, incorrectly recorded that there were four bottles of Methadone belonging to Resident A instead of six;

b) Between 22 November 2016 and 19 December 2016

i) incorrectly altered the entries on Resident B's Shift Change Control Drug Sheet for Lorazepam in that you:

(1) changed the number of tablets that were returned to "23" instead of "22";

(2) changed the total number of tablets to "27" instead of "28";

ii) incorrectly altered the entry on 22 November 2016 in the controlled drug register in relation to Lorazepam in that you changed the number of tablets that were returned to "23" instead of "22";

iii) did not report that there was error with Resident B's stock of Lorazepam to the Deputy Manager and / or Home Manager;

c) On 17 December 2016, did not ensure that Resident C's prescription for Trimethoprim was obtained from the pharmacy;

d) On 22 December 2016, did not ensure that Resident D's prescription was obtained from the pharmacy;

e) On 5 January 2017, did not record that Resident D's Diazepam was returned to the pharmacy in the controlled drug register;

2. Whilst employed at Beechwood Park Care Home on 9 February 2017, did not undertake a second check for administration of Oxycodone to Resident E and/or Resident F;

3. Whilst employed at Newcarron Court Care Home on 9 May 2018, you did not administer Mirtazapine on one or more occasions to a resident;

4. Whilst employed at Randolphill Care Home on or around 31 July 2018;

a) Dispensed night-time medication when you should have dispensed day- time medication;

b) On dispensing night-time medication, you did not take appropriate action to destroy or alternatively, return the medication back to the pharmacy cupboard;

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

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

Mr Badruddin made a request that this case be held partly in private on the basis that proper exploration of Miss Reid's case involves reference to her health and personal circumstances. The application was made pursuant to Rule 19.

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.

Having heard that there will be some reference to Miss Reid's health and personal circumstances, the panel decided to hold this hearing partly in private. It determined that it would go into private session as an when those matters arise in order to protect Miss Reid's privacy.

Consensual Panel Determination

Mr Badruddin informed the panel that a provisional CPD agreement had been reached between the NMC and Miss Reid. The agreement was signed by the NMC on 7 January 2022 and by Miss Reid on 13 December 2021.

The agreement, which was put before the panel, sets out Miss Reid's full admissions to all of the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in

the agreement that an appropriate sanction in this case would be a conditions of practice order for a period of 3 years. An 18-month interim conditions of practice order is also proposed.

Mr Badruddin submitted that although an agreement has been reached between the NMC and Miss Reid, it is for the panel to make an independent judgement on whether Miss Reid's fitness to practise is impaired and if so, what sanction to impose. Mr Badruddin reminded the panel of its powers and invited the panel to accept the CPD agreement.

The panel accepted advice of the legal assessor.

The panel has considered the provisional CPD agreement reached by the parties which reads as follows:

> *'**Fitness to Practise Committee***
> ***Consensual panel determination: provisional agreement***
>
> *1. Miss Reid is aware of the CPD hearing. Miss Reid does not intend to attend the hearing and is content for it to proceed in her absence. Miss Reid will endeavour to be available by telephone should any clarification on any point be required, or should the panel wish to make any amendment to the provisional agreement. Miss Reid understands that if the panel wishes to make amendments to the provisional agreement that she doesn't agree with, the panel will reject the CPD and refer the matter to a substantive hearing.*
>
> ***Preliminary issues***
>
> *2. The NMC, with the agreement of Miss Reid, will make an application under Rule 19 of the NMC (Fitness to Practise) Rules 2004 for part of the CPD to be in private in relation to any references to the Miss Reid's health*

and personal circumstances that affected her engagement in the NMC's regulatory proceedings.

The Charge

3. Miss Reid admits the following charges:

That you, a registered nurse:

1. Whilst employed at Marchglen Care Home:

a) During a medication count on or around 19 December 2016, incorrectly recorded that there were four bottles of Methadone belonging to Resident A instead of six;

b) Between 22 November 2016 and 19 December 2016

i) incorrectly altered the entries on Resident B's Shift Change Control Drug Sheet for Lorazepam in that you:

(1) changed the number of tablets that were returned to "23" instead of "22";

(2) changed the total number of tablets to "27" instead of "28";

ii) incorrectly altered the entry on 22 November 2016 in the controlled drug register in relation to Lorazepam in that you changed the number of tablets that were returned to "23" instead of "22";

iii) did not report that there was error with Resident B's stock of Lorazepam to the Deputy Manager and / or Home Manager;

c) On 17 December 2016, did not ensure that Resident C's prescription for Trimethoprim was obtained from the pharmacy;

d) On 22 December 2016, did not ensure that Resident D's prescription was obtained from the pharmacy;

e) On 5 January 2017, did not record that Resident D's Diazepam was returned to the pharmacy in the controlled drug register;

2. Whilst employed at Beechwood Park Care Home on 9 February 2017, did not undertake a second check for administration of Oxycodone to Resident E and/or Resident F;

3. Whilst employed at Newcarron Court Care Home on 9 May 2018, you did not administer Mirtazapine on one or more occasions to a resident;

4. Whilst employed at Randolphill Care Home on or around 31 July 2018;

a) Dispensed night-time medication when you should have dispensed day-time medication;

b) On dispensing night-time medication, you did not take appropriate action to destroy or alternatively, return the medication back to the pharmacy cupboard;

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

The facts

4. Miss Reid appears on the register of nurses, midwives and nursing associates maintained by the NMC as a registered nurse, specialising in adult nursing and has been a registered nurse since 27 September 2012.

Facts relating to Charge 1

5. On 10 February 2017, the NMC received a referral from Caring Homes Group Ltd ('CHG') concerning Miss Reid's failure to keep accurate records of drug stocks and failure to report the recording errors between 22 November 2016 and 5 January 2017.

6. At the material time, Miss Reid was employed by CHG as a Charge Nurse working at Marchglen Care Home ('MC Home'), a 37 bedded home divided into four units. Miss Reid predominantly worked at the Menteith Unit, which cared for 11 patients under the age of 65 with advanced complex nursing needs.

7. During the night shift of 19 to 20 December 2016, a staff nurse ('Nurse 1'), while conducting a drug stock check, noticed discrepancies between the drugs count and what was recorded in the controlled drug register and the residents' shift change control drug count ('SCCDC'). Nurse 1 noted that that there were no accurate check of controlled drugs, incorrect reporting of medication errors and the falsification of the controlled drug book. Nurse 1 reported these issues to the Deputy Manager, who investigated the concerns raised.

8. During the drug stock check, Nurse 1 noted that 4 bottles of methadone, belonging to Resident A was recorded in the controlled drug book but there were six bottles left instead. When this concern was discussed with Miss Reid, she admitted that she did not physically remove the bottles of methadone to

count them, contrary to CHG's medicines management policy, which Miss Reid was aware of.

9. When Nurse 1 conducted a drug stock check for Resident B's lorazepam, Nurse 1 identified discrepancies between the stock count and the recordings in the controlled drug register and the SCCDC sheet. The last entry on 22 November 2016, showed that 22 tablets out of 50 tablets of lorazepam were returned to the pharmacy, and as such only 28 tablets of lorazepam was left in stock. However, the entry of 22 November 2016 on the controlled drug register and SCCDC sheet had been altered to show that 23 tablets of lorazepam instead of 22 tablets was returned to the pharmacy. The SCCDC sheet was also altered between 22 November 2016 and 18 December 2016 to show that the total amount of lorazepam in stock was 27 instead of 28. On 20 December 2016 at 06:00am, Nurse 1 recorded that there were 28 tablets of lorazepam in stock for Resident B.

10. During the investigation conducted by the Deputy Manager, the discrepancy relating to Resident B's lorazepam count was brought to Miss Reid's attention. Miss Reid admitted that she changed the controlled drug register and the SCCDC sheet for Resident B's lorazepam. She believed that there was a miscount but did not report the error to the Deputy Manager in accordance with CHG's medicines management policy.

11. On 10 January 2017, the Deputy Manager investigated the concerns raised by Nurse 1. As part of the local investigation, the Deputy Manager identified further concerns relating to Miss Reid, namely:

1) On 17 December 2016, Miss Reid failed to ensure that antibiotics for Resident C were obtained from the local pharmacy.

2) On 22 December 2016, Miss Reid failed to request and obtain medication for Resident D in accordance with the instructions in the communication book.

3) On 5 January 2017, Miss Reid failed to record in the controlled drug register, in accordance with CHG's medicines management policy, that Resident D's diazepam was returned to the pharmacy.

12. On 27 January 2017, a disciplinary hearing was held and resulted in Miss Reid being dismissed. However, on 10 March 2017, an appeal hearing was held, and Miss Reid's dismissal was reduced to a final written warning. Consequently, Miss Reid was demoted to the position of a Staff Nurse and was assigned to work at another care home, Beechwood Park Care Home ('BPC Home').

13. The NMC investigated the concerns raised by CHG and referred the matter to the Case Examiners ('CEs'). On 21 August 2017, the CEs issued Miss Reid with a warning in light of her insight, remorse and the support she was receiving from her employer.

Facts relating to Charge 2

14. On 26 February 2018, the NMC received a referral from CHG, concerning an incident that occurred on 9 February 2017. The referral also raised concerns relating to previous incidents of medication mismanagement and breaching the policies and procedures relating to the safe administration and storage of controlled medication. At the material time, Miss Reid was employed by CHG as a Staff Nurse working at BPC Home.

15. On 9 February 2017, Miss Reid was working in the Ben Cleuch Unit ('BCU'). Miss Reid was the second checker for the administration of controlled

drugs and was required to witness the drugs being administered to residents in accordance with BPC Home's controlled drug policy. A bank nurse ('Nurse 2') while conducting the drug round for the Dumyat Unit at BPC Home, noted that Resident E required oxycodone, a controlled drug. Nurse 2 went to BCU to collect 10 mgs of oxycodone for Resident E. Miss Reid informed Nurse 2 that Resident F also required 10mgs of oxycodone, and so they dispensed the medication for both residents at the same time. Miss Reid did not accompany Nurse 2 to witness the administration of oxycodone to Resident E or Resident F. Resident E was then given 20 mgs of oxycodone instead of the prescribed 10 mgs of oxycodone. This became known when Nurse 2 returned to BCU requesting for more oxycodone for the Resident F. Upon realising the error, Miss Reid reported the mistake. Nurse 2 reported the matter the Resident E's GP and monitored Resident E closely. There was no harm to Resident E.

16. BPC Home investigated the incident, which resulted in Miss Reid being dismissed on 22 February 2018.

Facts relating to Charge 3 and 4

17. While the NMC investigated the referral made by CHG, the NMC requested a reference from Miss Reid's new employer at the time, Robinson Medical Recruitment ('RMR'). RMR provided a reference and confirmed that there were medication incidents, when Miss Reid worked at Newcarron Court Care Home ('NCC Home') and at Randolphill Care Home ('RC Home').

18. On 9 May 2018, while working at NCC Home, Miss Reid did not administer Mirtazapine to a resident on 3 separate occasions. Following this incident, Miss Reid attended a supervision meeting. Miss Reid was also asked to write a reflective statement regarding the incident as part of her revalidation.

19. On 31 July 2018, while working at RC Home, Miss Reid dispensed the night time medications in error. Miss Reid set aside the night medication instead of destroying or returning the medication back to the pharmacy. Miss Reid then administered the morning medications. Following this incident, Miss Reid was required to undertake a medication competency course and assessment, which she completed on 10 August 2018.

The NMC's regulatory proceedings

20. At the conclusion of the NMC's investigation of the concerns raised by CHG and RMR, the matter was referred to the CEs for consideration. The CEs determined that there was a case to answer and also decided to reopen the case relating to CHG's referral of 10 February 2017, as they related to similar medication and controlled drug errors.

21. Miss Reid accepted the regulatory concerns and as a result, the CEs recommended undertakings. On 1 February 2019, Miss Reid accepted the undertakings. Miss Reid was required to complete her undertakings within 12 months from the date it took effect, being 6 February 2019.

22. From May 2019 until January 2021, Miss Reid was unable to comply with the undertakings due to her personal circumstances, and as a result, the undertakings were varied on numerous occasions.

Private

23. [PRIVATE] *Consequently, Miss Reid was unable to comply with all of her undertakings, even though she had attempted to comply with some of her undertakings. On 22 August 2019, the CEs decide to vary some of the undertakings. On 8 October 2019, Miss Reid accepted the varied*

undertakings. Miss Reid was required to comply with the varied undertakings within 9 months from the date it took effect, being 11 October 2019.

24.[PRIVATE] *The CEs also extended completion of the undertakings by a further 9 months from the date the variation was to take effect. On 10 November 2020, a copy of the varied undertakings was sent to Miss Reid.*

25. On 5 January 2021, Miss Reid informed the NMC that she would not be able to comply with the undertakings within the set timeframe as her circumstances had not changed. [PRIVATE] *In light of this information, the NMC gave Miss Reid an extension until 22 January 2021 to provide a response to the variation of the undertakings. However, Miss Reid did not provide a response or provide her completed undertakings form.*

Public

26. In May 2021, the CEs revoked the undertakings and referred the matter to the Fitness to Practise Committee for determination.

27. The Parties agree that Miss Reid's failure to comply with the undertaking was a technical breach due to her personal circumstances, rather than an unwillingness to comply with those undertakings.

Misconduct

28. The Parties agree that the facts amount to misconduct.

29. In the case of Roylance v General Medical Council (No.2) [2000] 1 AC 311, Lord Clyde defined misconduct as follows:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances'

30. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) is to be answered by reference to the NMC's Code of Conduct. The Parties agree that Miss Reid's conduct breached the following paragraph of the NMC's Code of Conduct (effective March 2015):

1. Treat people as individuals and uphold their dignity

To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

10. Keep clear and accurate records relevant to your practice

To achieve this, you must:

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

18. Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs

18.4 take all steps to keep medicines stored securely

20. Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code.

31. The Parties agree that Ms Reid's conduct in all charges fell short of what would be reasonably expected of a registered nurse in the circumstances. Miss Reid's failings are serious and wide ranging relating to medication administration and management which were basic in nature, and involved vulnerable patients. They occurred in multiple settings over an extended period of time, and after receiving an NMC warning. Miss Reid's actions demonstrate a pattern of behaviour in which she continually has departed from the standards expected of a registered nurse. Accurate administration of medications, record keeping, undertaking appropriate medication checks and following controlled drug policies could be said to be a basic essential nursing skills, and failures in this regard have the potential to cause serious patient harm.

32. In relation to Charge 1, Miss Reid failed to keep accurate records of controlled drugs in accordance with the care home's policy and the NMC's Code of Conduct. In addition, she failed to ensure that resident's medication was obtained in time, which resulted in Resident C missing two doses of their medication and therefore were deprived of effective care when needed. Miss Reid also failed to report the possible error in the count of a resident's medication, contrary to the care home's policy. Alteration of the controlled drugs sheet, to correct what she thought were errors without making it clear, and failing to report these errors are of the upmost seriousness and could impact on what care patients receive. The public would rightly expect a nurse to accurately record drug stock levels and report any errors on drug records, particularly in relation to controlled drugs, thus a failure to do so could call into question the reputation of the nursing profession.

33. In relation to Charge 2, Miss Reid was aware of the process and guidelines relating to the administration of a controlled drug but failed to comply with those processes and guidelines. This failure resulted in Nurse 2 giving Resident E more than the prescribed dose of medication. However, we note that when Miss Reid discovered the Oxycodone error, she took immediate steps to ensure the safety of Resident E.

34. In relation to Charge 3, Miss Reid's action was serious and amounted to misconduct as she failed to give a resident their medication when it was due on several occasions. As such, the resident was deprived of proper care and medication at the required time.

35. In relation to Charge 4, Miss Reid failed to follow the process relating to the medication dispensed in error by leaving it aside instead of destroying the medication or returning it to the pharmacy cupboard. Miss Reid failed to take the steps required to store medication securely and comply with the guidelines

relating the storage and destruction of medications, which would have been accessible to patients.

36. Omissions and failures in administering medication, failing to undertake second checks and inaccurate medication records all have the potential to place patients at serious risk of harm, and is conduct which individually and cumulatively, amounts to misconduct.

Impairment

37. The Parties agree that Miss Reid's fitness to practise is currently impaired by reason of her misconduct.

38. In line with rule 31(7)(b) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, a departure from the Code is not of itself sufficient to establish impairment of fitness to practise, that question, like misconduct is a matter for the panel's professional judgment.

39. In considering the questing of impairment, the Parties have considered the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin), in which Justice Cox adopted the matters outlined by Dame Janet Smith in the Fifth Shipman report which invites panels to ask in the particular circumstances of this case:

Do our findings of fact show that the Registrant's fitness to practise is impaired in the sense that s/he:

a) Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or

c) Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or

d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future?

40. The Parties agree that first three limbs outlined by Justice Cox are engaged in this case.

41. Miss Reid's conduct relates to a series of medication errors, which has placed patients at risk of harm and also has the potential to cause harm in the future.

42. The public, quite rightly expects nurses, to provide safe and effective care, and conduct themselves in ways that promotes trust. Hearing about Miss Reid's actions, would cause patients and members of the public to be concerned about their safety and feel unnecessarily anxious about their healthcare treatment. This could result in patients, and members of the public feeling deterred from seeking medical assistance when they should. Therefore, it is agreed that Miss Reid's conduct is liable in the future to bring the medical profession into disrepute.

43. Miss Reid actions breached the fundamental tenets of the medical profession, to prioritise people, practice effectively, and preserve safety

Remediation, reflection training and insight

44. The Parties have also considered the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment, namely:

a) Whether the conduct that led to the charge(s) is easily remediable?

b) Whether it has been remedied?

c) Whether it is highly unlikely to be repeated?

45. Miss Reid's conduct relate to a series of medication errors, which can be remedied through training and supervision.

46. Before effective steps can be taken to remedy the concerns, the nurse must recognise the problem that needs to be address, and particularly demonstrate sufficient insight.

47. Miss Reid has provided a reflective statement, character references and has made some attempts to remedy the misconduct, showing some insight by way of admission and acceptance of the regulatory concerns, however this is limited. See Appendix 1 for a copy of Miss Reid's responses.

48. Miss Reid in her reflective statement, explained:

I would like to admit all charges I have against me however I would like to explain where I feel I have gone wrong, that I would be aware of these incidents in going forward.

[…] at Marchglen care home, I know I made terrible mistakes one being covering up someone elses control drug error however at that time I was not

in the correct frame of mind and looking back should have gone to the doctors and took got a line for some time off work.

[PRIVATE]

I believe I was witch hunted as it got back to management that I was asking staff to write reports of their issues with them to take to head office, and they wanted me out the door which did happen, however after I appealed and had copies of staff conversions between them and myself as proof that there were issues going on between management and staff.

I then went to work for the sister care home Beechwood, this was an advanced dementia unit with quite a few mobile residents that would try and get up and walk if not supervised.

On this evening it was just a carer and me, we would normally have 2 carers, however she was pulled downstairs that evening due to staff shortages.

There was a new Nurse in the opposite unit she came to sign out control drugs but the unit was very active, on reflection I should have asked her to come back once I had the unit settled into bed or at least the mobile residents but I didn't unfortunately, instead I did do the count and check in the drug cupboard but instead of following her to give the medication I asked if she would be fine giving it alone.

This was a decision that could have been a potential danger as the nurse gave the medicine to the incorrect resident, fortunately this resident was prescribed this medication on a prn basis, all protocols such as contacting the doctor, regular checks and paperwork carried out. No harm was caused however this did give me a massive wakeup call on the importance of carrying out the full protocol for control medications.

Whist working with RMR agency I was pulled for a couple of drug errors, Newcarron court I never administered a ladies Mirtazapine on 3 separate occasions […] on these 3 occasions I have forgotten so this mistake would have been avoidable if I had just marked the mar sheet as asleep, however I didn't want her missing so much of her mirtazapine so tried to remember to give it with her controlled drug at the next drug round.

The next Incident was Randolphill care home, It is expected of the nurse in the morning to pair with a carer to get so many residents up, I was running late and behind to give out the early morning meds as I has been on the Nightshift.

Rushing I automatically picked up the Nightshift Blister popped it then realised straight away what I had done, so I sat the pot aside in the locked drug trolley with written details in the pot of the resident name and details of it being the morning medication. Whilst I gave out the correct medication, I was still carrying out the medication round when the dayshift nurse came on shift.

After I administered the mediations, I explained to her I accidently popped the nightshift blister pack what would she like me to do?

She told me it was fine to just leave it and she would deal with it appropriately; I know I should have followed the companies' protocol and ensured that the medication was disposed of correctly and new medication ordered. This would never happen again this was lazy and incompetent practice on my behalf.

I realise the mistakes I have made were very much avoidable and have learned and payed for these mistakes deeply. I just need a clan start to prove myself again.

I am a good nurse with lots of skills, and I care deeply for the staff and the residents I have had the pleasure of working with. I was even awarded nurse of the year by staff and residents at marchglen, until working under new management there I had never made a drug error or mistake, I do feel my state of mind at marchglen was my downfall, as for the rest I do take responsibility completely and feel these are mistakes I have learned from.

49. Miss Reid acknowledges that she made numerous mistakes and provides some explanation for her behaviour, [PRIVATE] *however has not sufficiently provided an explanation for all of her conduct but instead seeks at times to place blame on colleagues and patients for her actions.*

50. Although Miss Reid acknowledges that she would not act in the same manner again, she has not been able to fully account for what she could have done differently or how she would act differently in the future to avoid similar problems happening. Miss Reid has also not shown any insight into the potential harm and impact on patients, her colleagues, the public and nursing profession as a result of her actions.

51. Despite Miss Reid's previous attempts at remediation, such as undertaking medication competency course and writing a reflective statement, and despite being subject to an NMC warning, she has continued to repeat her medication errors.

52. Although Miss Reid has been unable to fully comply with the undertakings and remediate her conduct, this was not intentional and due to significant personal circumstances. Miss Reid is willing to engage and work towards remediation. Miss Reid has been open and honest with both the NMC and her employers about her failings, making some attempts to remediate her conduct by completing a Key Medication Module Course on 19 July 2019. However remediation is currently at the initial stages.

Public protection

53. The Parties agree that there remains a significant risk of repetition, and thereby a real risk of significant harm to patients, if the same or similar conduct occurred again. As such a finding of current impairment is necessary on the grounds of public protection.

Public interest

54. In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

"In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances."

55. The Parties agree that the misconduct in this case is so serious, that a finding of impairment on the basis of public interest is required. Such a public declaration would assist in repairing the damage to the reputation of the profession caused by Miss Reid's misconduct. Therefore, in accordance with the comments of Cox J, this is a case where a finding of current impairment is required to declare and uphold proper professional standards and public confidence, and protect the reputation of the nursing profession.

56. The Parties agree that Miss Reid's fitness to practise is impaired on the grounds of public interest.

Sanction

57. The Parties have considered all sanction options open to the panel, starting with the least restrictive sanction, and agree that the appropriate sanction in this case is 3 years conditions of practice order.

58. In determining sanction the panel should have regard to the NMC's published sanctions guidance. The panel will be aware that the purpose of sanctions is not to be punitive but to protect the public interest it follows, as in the case of Bolton, that 'since the professional body is not primarily concerned with matters of punishment, considerations which would normally weigh in mitigation of punishment have less effect on the exercise of this kind of jurisdiction'.

Aggravating and mitigating features

59. The panel may consider the aggravating features in this case are:

1) Repetition of conduct over a sustained period of time and since 2016;

2) Conduct which put patients at risk of suffering harm;

3) Lack of full insight into failings and lack of remediation; and

4) Previous NMC referral of similar nature and warning issued by CEs;

60. The panel may consider the mitigating factors in this case are as follows:

1) Early admissions of the facts.

2) [PRIVATE]

3) Efforts to remediate conduct and remorse shown.

Type of sanction

61. Taking no further action or imposing a Caution Order would not be an appropriate disposal as neither would mark the serious nature of the misconduct. Furthermore, action is warranted in order to maintain trust in nurses and promote and maintain proper professional standards and conduct.

62. The Parties agree that a Conditions of Practice Order is appropriate in this case as Miss Reid is willing to engage in training and work towards remediation and safer practice as a nurse. There is also identifiable areas of practice to remediate, no evidence of harmful deep-seated personality or attitudinal problems, and patients would not be put in danger as a result of the conditions but would sufficiently protect the public in this case.

63. The Parties agree and recommends the following conditions:

1) Prior to starting your employment or providing nursing services, you must undertake relevant training courses in medication administration and management, storage of medicines, and record keeping, in which your competency must be assessed;

2) To provide evidence to the NMC within 14 days of you having successfully completed the relevant course.

3) You must not work or otherwise providing nursing services:

a) as the sole nurse on duty;

b) through an agency or as a bank nurse.

4) At any time that you are employed or otherwise providing nursing services, to place yourself and remain under the supervision of a workplace line manager or supervisor nominated by your employer. Such supervision must consist of

a) working at all times on the same shift as, but not necessarily under the direct observation of a registered nurse;

b) to complete medication rounds only when under the direct supervision of another registered nurse until such time that you are deemed competent by a nurse of grade 6 or above, to undertake them independently;

5) You must keep a personal development log every time you undertake medication administration and management. The log must:

a) Contain the dates that you carried out medication administration and management;

b) Be signed by the nurse who directly supervised you each time;

c) Contain feedback from the nurse who directly supervised you each time;

6) Within 14 days of being deemed competent, you will provide to the NMC evidence that your medication competency has been achieved by:

a) sending a report from your line manager or supervisor setting out the standard of your supervised medication rounds;

b) Send a copy of the personal development log;

7) Within 14 days of commencing your employment, to work with your line manager or supervisor (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns relating to medicines management in the following areas of your practice:

a) Medication administration;

b) Use of Controlled Drugs;

c) Safe storage and disposal of medication;

d) Record keeping.

8) To forward to the NMC a copy of your PDP within 14 days from the date on which your PDP is created.

9) To meet every two weeks for the first month of your employment and then every month thereafter with your workplace line manager or supervisor to discuss your performance and progress towards your PDP;

10) To send an overall report from your line manager or supervisor setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan:

a) every six months;

b) 14 days before any review hearing.

11) To write a reflective statement commenting on each charge, including its impact on patients, colleagues, the public and the profession, outlining what about your conduct was exactly wrong and what you would do differently in the future. You must provide a copy of this reflection to the NMC 14 days prior to any review hearing.

12) Keeping us informed about where you are working by:

a) telling us within seven days of accepting any nursing appointments and providing us with contact details of the employer.

b) telling us within seven days when you leave or stop working for an employer.

c) giving us the name and contact details of the individual or organisation offering the post, employment or course of study within seven days of accepting any post or employment requiring registration with us, or any course of study connected with nursing or midwifery.

d) giving us the name and contact details of the individual or organisation within seven days of entering into any arrangements required by these conditions.

13) Immediately telling the following parties that you have agreed to these conditions under the NMC fitness to practise procedures, and disclosing the conditions to them:

a) any organisation or person employing, contracting with, or using you to undertake nursing work;

b) any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services;

c) any prospective employer (at the time of application) where you are applying for any nursing appointment;

d) any educational establishment where 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).

14) Telling us about any clinical incidents you are involved in, any investigations started against you and/or any disciplinary proceedings taken against you within seven days of you being made aware of them.

15) Allowing us to share, as necessary, information about the standard of your performance, your compliance with and progress towards completing these conditions with any employer, prospective employer, any educational establishment and any other person who is or will be involved in your retraining and supervision.

64. A 3 year conditions of practise order will provide Miss Reid with sufficient time to remediate her actions and evidence a period of safe and effective practice, once her personal circumstances are improved. Although Miss Reid is willing to engage and remediate her practice, due to her ongoing personal circumstances it is envisaged that it will take longer for Miss Reid to obtain employment and fully remediate her practice.

65. The Parties agree that suspension order or a striking off order would not be appropriate at this time given the mitigating features identified in this case and the concerns are not so serious to require a more serious sanction.

66. In these circumstances, the Parties agree that a 3 years conditions of practice order, is both proportionate and appropriate to mark the serious nature of the misconduct and to protect the public.

Referrer's comments

67. On 1 December 2021, the NMC asked the Referrer for comments in respect of this agreement. The NMC has not received any comments from the referrer.

Interim order

68. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event Miss Reid seeks to appeal against the panel's decision. The interim order should take the form of an interim conditions of practice order and should mirror the sanction imposed by the panel.

69. The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Decision and reasons on the CPD

The panel decided to accept the CPD agreement.

The panel noted that Miss Reid has admitted to all of the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Miss Reid's admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on misconduct and impairment

The panel then went on to consider whether Miss Reid's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Reid, the panel has exercised its own independent judgement in reaching its decision on impairment.

In making its decision on misconduct, the panel had regard to the specific sections of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ('the Code'). It determined that the sections of the Code as set out in the CPD agreement were applicable in this case, specifically:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively.

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

10 Keep clear and accurate records relevant to your practice

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this you must:

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs

18.4 take all steps to keep medicines stored securely

20 Uphold the reputation of your profession at all times

To achieve this, you must, as appropriate:

20.1 keep to and uphold the standards and values set out in the Code

Whilst the panel noted that breaches of the Code do not automatically warrant a finding of misconduct, it considered that Miss Reid's actions fell far below the standards expected of a registered nurse and were sufficiently serious to amount to misconduct. In this respect the panel endorsed paragraphs 31 to 36 of the provisional CPD agreement.

The panel then considered whether Miss Reid's fitness to practise is currently impaired by reason of her misconduct.

In its consideration of impairment, the panel had regard to Dame Janet Smith's Fifth Shipman Report:

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

d) *…'*

The panel was of the view that the first three limbs of this test were engaged. It considered that Miss Reid's medication errors put patients at an unwarranted risk of harm and has the potential to cause harm in the future. Furthermore, the panel determined that Miss Reid's actions in this regard brought the profession into disrepute and breached fundamental tenets of the profession.

The panel also had regard to the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin), in which the court set out three matters which it described as being '*highly relevant'* to the determination of current impairment:

'(a) Whether the conduct that led to the charge(s) is easily remediable?
(b) Whether it has been remedied?
(c) Whether it is highly unlikely to be repeated?'

It was the view of the panel that Miss Reid's conduct is capable of remediation. It noted that the concerns in this case relate to medication errors which can be addressed by training and supervision.

In respect of whether Miss Reid's conduct has been remediated, the panel had regard to her personal statement. The panel was of the view that whilst Miss Reid explains her actions and does accept that she made mistakes, her insight is incomplete. It noted that Miss Reid has not taken full responsibility for her actions and has sought to deflect some of the blame onto colleagues and patients. In addition, the panel took into account that Miss Reid has not demonstrated an understanding of how her actions impacted her colleagues, the patients and families involved, as well as the nursing profession. As well as her lack of full insight, the panel was of the view that Miss Reid has not taken the necessary steps to remediate the concerns in her practice. Aside from a Medication Module Course in 2019, the panel did not have sight of any up-to-date training completed by Miss Reid.

The panel did bear in mind however, that Miss Reid has engaged with the NMC and has made full admissions to the charges against her. She also accepts that her fitness to practise is impaired by reason of her misconduct. [PRIVATE]

Nonetheless, in light of her lack of full remediation and insight, the panel concluded that there is a risk of repetition in this case and that a finding of impairment is necessary on the grounds of public protection.

The panel was also of the view that a finding of impairment was in the public interest. It had regard to the need to uphold proper professional standards and public confidence in the profession, which would be undermined if a finding of current impairment was not made at this time.

As such, the panel endorsed paragraphs 37 to 56 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Miss Reid's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind

that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features (as set out in the CPD):

- Repetition of conduct over a sustained period of time and since 2016;
- Conduct which put patients at risk of suffering harm;
- Lack of full insight into failings and lack of remediation; and
- Previous NMC referral of similar nature and warning issued by CEs.

The panel also took into account the following mitigating features (as set out in the CPD):

- Early admissions of the facts;
- [PRIVATE]
- Efforts to remediate conduct and remorse shown.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case.

It then considered the imposition of a caution order but again determined that due to the seriousness of the case as well as the public protection issues identified, an order that does not restrict Miss Reid's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Reid's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. It had regard to the SG which sets out that a conditions of practice order may be suitable where there is:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. It noted that Miss Reid's misconduct relates to medication errors which can be addressed through retraining and supervision. In addition, whilst Miss Reid's insight is incomplete, she has demonstrated a willingness to remediate the concerns in her practice. The panel was therefore satisfied that a conditions of practice order would adequately protect the public.

The panel was also of the view that it was in the public interest that, with appropriate safeguards, Miss Reid should be able to return to practise as a nurse.

Balancing all of these factors, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order would be unduly punitive and would not be a reasonable response in the circumstances of this case. It noted that Miss Reid has engaged with the NMC, has admitted to all of the facts and that her fitness to practice is impaired, and has made some efforts to remediate her practice.

Having regard to all of the above, the panel concluded that a conditions of practice order would mark the importance of maintaining public confidence in the profession and will send a clear message about the standards of practice required of a registered nurse to the public and the profession.

The panel agreed with the CPD that the following conditions 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) Prior to starting your employment or providing nursing services, you must undertake relevant training courses in medication administration and management, storage of medicines, and record keeping, in which your competency must be assessed;

2) To provide evidence to the NMC within 14 days of you having successfully completed the relevant course.

3) You must not work or otherwise providing nursing services:
a) As the sole nurse on duty;
b) Through an agency or as a bank nurse.

4) At any time that you are employed or otherwise providing nursing services, to place yourself and remain under the supervision of a workplace line manager or supervisor nominated by your employer. Such supervision must consist of:
a) working at all times on the same shift as, but not necessarily under the direct observation of a registered nurse;

b) to complete medication rounds only when under the direct supervision of another registered nurse until such time that you are deemed competent by a nurse of grade 6 or above, to undertake them independently.

5) You must keep a personal development log every time you undertake medication administration and management. The log must:

a) Contain the dates that you carried out medication administration and management;
b) Be signed by the nurse who directly supervised you each time;
c) Contain feedback from the nurse who directly supervised you each time.

6) Within 14 days of being deemed competent, you will provide to the NMC evidence that your medication competency has been achieved by:

a) Sending a report from your line manager or supervisor setting out the standard of your supervised medication rounds;
b) Send a copy of the personal development log;

7) Within 14 days of commencing your employment, to work with your line manager or supervisor (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns relating to medicines management in the following areas of your practice:

a) Medication administration;
b) Use of Controlled Drugs;
c) Safe storage and disposal of medication;
d) Record keeping.

8) To forward to the NMC a copy of your PDP within 14 days from the date on which your PDP is created.

9) To meet every two weeks for the first month of your employment and then every month thereafter with your workplace line manager or supervisor to discuss your performance and progress towards your PDP.

10) To send an overall report from your line manager or supervisor setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan:

a) Every six months
b) 14 days before any review hearing

11) To write a reflective statement commenting on each charge, including its impact on patients, colleagues, the public and the profession, outlining what about your conduct was exactly wrong and what you would do differently in the future. You must provide a copy of this reflection to the NMC 14 days prior to any review hearing.

12) Keeping us informed about where you are working by:

a) Telling us within seven days of accepting any nursing appointments and providing us with contact details of the employer.
b) Telling us within seven days when you leave or stop working for an employer.
c) Giving us the name and contact details of the individual or organisation offering the post, employment or course of study within seven days of accepting any post or employment requiring registration with us, or any course of study connected with nursing or midwifery.
d) Giving us the name and contact details of the individual or organisation within seven days of entering into any arrangements required by these conditions.

13) Immediately telling the following parties that you have agreed to these conditions under the NMC fitness to practise procedures, and disclosing the conditions to them:

a) any organisation or person employing, contracting with, or using you to undertake nursing work;

b) any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services;

c) any prospective employer (at the time of application) where you are applying for any nursing appointment;

d) any educational establishment where 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).

14) Telling us about any clinical incidents you are involved in, any investigations started against you and/or any disciplinary proceedings taken against you within seven days of you being made aware of them.

15) Allowing us to share, as necessary, information about the standard of your performance, your compliance with and progress towards completing these conditions with any employer, prospective employer, any educational establishment and any other person who is or will be involved in your retraining and supervision.

The period of this order is for three years.

Before the end of the period of the order, a panel will hold a review hearing to see how well Miss Reid 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:

- Miss Reid's continued engagement
- Any evidence of other training or continued professional development (CPD) in respect of medicines administration
- Miss Reid's attendance at the next hearing

This will be confirmed to Miss Reid in writing.

Decision and reasons on interim order

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Reid's own interests until the conditions of practice sanction takes effect.

The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months in order to cover the appeal period.

If no appeal is made, then the interim conditions of practice order will be replaced by the substantive conditions of practice order 28 days after Miss Reid is sent the decision of this hearing in writing.

That concludes this determination.