

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

**Substantive Order Review Hearing
Thursday, 1 February 2024**

Virtual Hearing

Name of Registrant:	Tye Reeves
NMC PIN	07C0472E
Part(s) of the register:	Registered Nurse - Adult Nursing RNA Level 1 - April 2009
Relevant Location:	Medway
Type of case:	Misconduct
Panel members:	Fiona Abbott (Chair, Lay member) Mary Karasu (Registrant member) Georgina Wilkinson (Lay member)
Legal Assessor:	Paul Hester
Hearings Coordinator:	Elizabeth Fagbo
Nursing and Midwifery Council:	Represented by Raj Joshi, Case Presenter
Mr Reeves:	Not present and unrepresented at the hearing.
Order being reviewed:	Conditions of practice order (12 months)
Fitness to practise:	Impaired
Outcome:	Conditions of practice order (12 months) to come into effect on 15 March 2024 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 Reeves was not in attendance and that the Notice of Hearing had been sent to Mr Reeves' registered email address by secure email on 3 January 2024.

Further, the panel noted that the Notice of Hearing was also sent to Mr Reeves' representative at the Royal College of Nursing (RCN) on 3 January 2024.

Dr Joshi, 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 Reeves' right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Reeves 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 Reeves

The panel next considered whether it should proceed in the absence of Mr Reeves. The panel heard the submissions of Dr Joshi who invited the panel to continue in the absence of Mr Reeves.

Dr Joshi referred the panel to the documentation from Mr Reeves' representative at the RCN which included a letter, dated 31 January 2024, stating the following:

'... Our member will not be attending the hearing, nor will they be represented. No disrespect is intended by their non-attendance and our member is keen to continue to engage with the proceedings. Our member has received the notice of hearing and is happy for the hearing to proceed in their absence...'

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Reeves. In reaching this decision, the panel has considered the submissions of Dr Joshi, the written representations made on Mr Reeves' behalf, and the advice of the legal assessor. It has had particular regard to Rule 21 and the relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Reeves;
- Mr Reeves representative at the RCN has informed the NMC that he has received the Notice of Hearing, confirmed he is content for the hearing to proceed in his absence and written representations have been provided;
- Mr Reeves voluntarily absented himself;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- There is a strong public interest in the expeditious review of the case; and
- The current conditions of practice order is due to expire on 15 March 2024.

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

Decision and reasons on review of the substantive order

The panel decided to make a conditions of practice order. This order is based upon the existing order with some variations.

This order will come into effect at the end of 15 March 2024 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 12 months by a Fitness to Practise Committee panel on 15 February 2023.

The current order is due to expire at the end of 15 March 2024.

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 30 July 2019 failed to record any details of a consultation with Patient A. (PROVED BY WAY OF ADMISSION)*

- 2) *On 29 August 2019 incorrectly recorded that Patient B had been administered an MMR vaccination when they had not. (PROVED BY WAY OF ADMISSION)*

- 3) *On 21 November 2019*
 - a) *incorrectly recorded that Patient C had been administered a B12 injection when they had not; or in the alternative (PROVED BY WAY OF ADMISSION)*

 - b) ...

- 4) *On 21 November 2019 failed to record that you had administered a B12 injection to Patient D.*
(PROVED BY WAY OF ADMISSION)
- 5) *On 21 February 2020 in relation to Patient K*
- a) *gave the patient five or six vials of B12 and/or syringes to take home; (PROVED BY WAY OF ADMISSION)*
- b) ...
- 6) *On 4 March 2020 in relation to Patient J*
- a) *incorrectly administered the MMR, Meningitis B and Infanrix Hexa vaccines which were not in accordance with their Allogeneic Post-Transplant Vaccination Schedule. (FOUND PROVED)*
- b) *failed to administer Revaxis and/or Menitorix vaccines which were due to be administered in accordance with their Allogeneic Post-Transplant Vaccination Schedule. (FOUND PROVED)*
- 7) *On 23 April 2020 in respect of Patient E*
- a) ...
- b) ...

c) *or in the alternative, wrongly recorded that you had administered the 12 month set of routine childhood vaccinations. (PROVED BY WAY OF ADMISSION)*

8) *On 30 April 2020 in respect of Patient F*

a) ...

b) ...

c) *or in the alternative, wrongly recorded that you had administered the 12 month set of routine childhood vaccinations. (PROVED BY WAY OF ADMISSION)*

9) *On 4 June 2020 and/or 12 June 2020 in relation to Patient G*

a) *failed to refer the patient to a GP for a review; (FOUND PROVED)*

b) ...

10) *On 11 June 2020 in relation to Patient H*

a) ...

b) ...

c) *or in the alternative, wrongly recorded that you had administered the second set of routine*

childhood vaccinations. (PROVED BY WAY OF ADMISSION)

11) On 11 June 2020 in relation to Patient I

a) incorrectly recorded that you had administered the first, second and third set of routine childhood vaccinations on that date; (PROVED BY WAY OF ADMISSION)

b) failed to record the batch number of the vaccine(s) which were administered. (PROVED BY WAY OF ADMISSION)'

The original panel determined the following with regard to impairment:

'In this regard, the panel considered the test approved by Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 76, she said:

'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 considered that limbs a, b and c of Dame Janet Smith's test set out in the Fifth Report from Shipman were engaged by your past actions.

The panel went on to consider whether you remained liable to place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel applied the test set out in the case of Cohen, and assessed your levels of insight, remorse and remediation.

The panel considered that your failings, which were clinical in nature, were capable of remediation. The panel had regard to the steps you have taken to address your failings, and remedy your practice, since the incident occurred. The panel noted that you gave an example of how you have acted differently in a similar situation, for instance that you would check patient records to make sure that you have made the correct entries in patient consultation notes. The panel noted that you had undertaken training and noted in particular a targeted training course in the "EMIS WEB" computer system. However, the panel had no evidence that you had undertaken training in record keeping since November 2019, which predates some of the relevant charges found proved. Although you have worked as a registered nurse following your dismissal from the Surgery, you have provided no references or testimonials.

The panel was not satisfied that you have shown evidence of taking full responsibility for your actions, in that you sought to put responsibility onto your colleagues and draw attention to the logistics of your working environment during the COVID pandemic. The panel also heard no evidence on your understanding of how your actions put the patients at risk of harm and how your actions impacted negatively on the reputation of the nursing profession. The panel considered that you made admissions to some of the charges, but it determined that these admissions do not show sufficient remorse or insight.

The panel was satisfied that the misconduct in this case is capable of remediation. However, there is no evidence, from an independent source that you have fully remediated the concerns in this case. The panel was of the view that showing that you are able to give medication in a safe manner, following the necessary procedures and applying your training to your clinical practice, is an integral part of remediating your failings. It therefore concluded that you have not yet remediated your misconduct and that due to this there is a risk of repetition and a risk of harm to patients. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel found that your practice was impaired and that there remains a risk to the public given the lack of full insight and lack of any evidence of measures you have taken to strengthen your practice. The panel took into account the nature of the concerns, the misconduct identified and your experience, including any mitigating factors. The panel also considered the submissions made by Mr Walters and it was mindful of the difficulties

you have faced obtaining employment whilst subject to an interim conditions of practice order. However, it was of the view that conditions of practice would be the least restrictive sanction that the panel could impose that would protect the public and eventually allow you to return to unrestricted practice. 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 also considered that an informed member of the public armed with the full facts of this case would be satisfied that the public interest would not be undermined by you being allowed to continue practising and that the public would be adequately protected with a conditions of practice order.

The panel determined that a suspension order or a striking-off order would be wholly disproportionate at this stage and would not be a reasonable response in the circumstances of your case because it determined that the misconduct in this case is identifiable, clinical and therefore remediable.

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

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order. The panel determined 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. *You must not be the sole nurse in charge and must work alongside at least one registered nurse on the same shift, but not always directly observed by that registered nurse.*
2. *You must work with your line manager to create a personal development plan (PDP). Your PDP must address the concerns about record keeping, medication management and escalation of concerns.*
 - *You must send your NMC case officer a copy of your PDP within 21 days of its creation.*
 - *You must send your NMC case officer a report from your line manager prior to the next review of this order. This report must show your progress towards achieving the aims set out in your PDP.*
3. *You should complete training in medication management and administration, and recording. You must send your NMC case officer evidence that you have successfully completed this within 14 days of completion of said courses.*
4. *You must meet with your line manager, mentor or supervisor at least monthly to discuss your progression with your PDP.*
5. *You must keep us informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
6. *You must immediately give a copy of these conditions to:*
 - *Any organisation or person you work for.*
 - *Any agency you apply to or are registered with for work.*
 - *Any employers you apply to for work (at the time of application).*
 - *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

- *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*

7. *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.*

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

- *Any current or future employer.*
- *Any educational establishment.*
- *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for twelve months.

Before the order expires, a panel will hold a review hearing to see how well you have 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:

- *Your continued engagement with the NMC;*
- *References or testimonials of any paid or unpaid work you have undertaken;*
- *Any evidence of further training you have undertaken; and*
- *A further reflective piece demonstrating insight.'*

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it, including the NMC bundle, and the written representations made on Mr Reeves behalf by the RCN. It also took into account the submissions made by Dr Joshi on behalf of the NMC.

Dr Joshi provided the panel with a brief outline of the background of the case. He submitted that there is new information before the panel today which included Mr Reeves' reflective statement and training certificates. He submitted that despite this new information there is nothing before the panel today which undermines the current order, as Mr Reeves' is currently not employed as a nurse and has not had opportunity to demonstrate his compliance with the conditions. Therefore, he submitted that Mr Reeves' fitness to practise remains impaired.

Dr Joshi referred the panel to the letter from the RCN on Mr Reeves behalf, dated 31 January 2024. He pointed the panel to Mr Reeves detailed reflective statement, dated 31 January 2024, where he expressed that he wishes to continue to practise as a nurse, along with two training certificates dated 22 January 2024 and 28 January 2024. He submitted that from the dates on the certificates it is evident that this training had been done very recently rather than being spread over the 12 months of the existing order.

Dr Joshi invited the panel to extend the current conditions of practice order for 12 months if it did find impairment, on the same grounds found at the Substantive Hearing. He submitted that this would allow Mr Reeves further time to strengthen his practice, as there were only two relevant training certificates before the panel today.

The panel had regard to the RCN's written submissions on behalf of Mr Reeves which were contained in a letter, dated 31 January 2024, which states as follows:

...Enclosures:

- 1. Reflection*
- 2. Training Certificates*

...

Submissions

The Registrant has worked as a registered nurse since 2009 and has never had any regulatory sanction levied upon him before now. The Registrant has been unable, despite his best efforts, to secure employment as a nurse due to the Conditions and has not worked as a registered nurse. He advises that he does wish to return to nursing. He continues to seek employment and is committed to the process of remediation and insight (please see reflection attached). As the Registrant is not employed as a nurse and has not had a line manager, he is unable to provide further information requested in Conditions two and four. The Registrant has completed training in medication management and administration and recording in accordance with Condition three (please see attached training certificates). We acknowledge that the original period of this Order is due to end shortly and due to registrant's inability to get a nursing job he has been unable to provide complete evidence of compliance with all the Conditions. The Registrant therefore acknowledges that the Panel may wish to extend the Conditions for a further period.

It is respectfully submitted that the level of risk originally assessed has not changed and there are no grounds or increase in risk that necessitates a more severe variation to the current conditions. Consequently, we assert that there are no grounds to impose any additional restrictions upon our members' registration. We respectfully submit the continuation of the order in its current form. The Registrant is aware of his right to request an early review of the order and will avail himself of the opportunity where new information is available that changes the substantive position.

Should the panel be minded to make a different or more adverse decision we would kindly ask that this matter be adjourned to enable representation. However, we would strongly contend that such is not necessary in light of the above...'

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 Reeves' fitness to practise remains impaired.

The panel noted that the original panel found that Mr Reeves had insufficient insight. At this hearing the panel found that Mr Reeves' insight had improved. It took into account his reflective statement, dated 31 January 2024, which stated the following:

'...I have taken time to contemplate my actions. I have come to recognize my errors, fully understanding their potential consequences on the well-being of patients and the reputation of the profession...

...In the pursuit of bettering my practices[sic], I took part in training and learning initiatives related to these areas, despite my current state of unemployment... I now fully comprehend the essential role proper record-keeping plays in promoting safe and effective patient care and will uphold its importance in my future practice...

... Looking back, I can see how this could potentially jeopardize patient safety and the overall care delivery system. I now appreciate the significance of escalating concerns promptly to the relevant individuals to ensure consistent and quality care to patients...'

The panel was of the view that since the original substantive hearing Mr Reeves has taken responsibility for his actions, demonstrated an understanding of why what he did was wrong and how his actions could have put patients at a risk of harm. The panel also noted that Mr Reeves had expressed how he now understood how his actions impacted negatively on the reputation of the nursing profession but did not sufficiently cover how he will strengthen his clinical practice in relation to the clinical concerns.

The panel also took into account Mr Reeves' numerous training certificates, which were all dated either 22 January 2024 or 28 January 2024. In the panel's view the certificates of relevance to the current order are *the Advanced Medicines Management for Nurses and AHPs Level 3* and *Maintaining best practice in record-keeping and documentation*. The panel was of the view that Mr Reeves is taking steps to strengthen his practice by engaging in the relevant training courses. The panel determined that the information before it today demonstrates Mr Reeves' commitment to comply with the conditions of practice order. In the panel's view the training certificates are very recent and Mr Reeves has not had the opportunity to demonstrate safe practice in a nursing environment nor showcase what he has learned as he has been unable to secure employment in a nursing role. The panel was of the view that it would not be safe for Mr Reeves' to practice unrestricted at this time as there is no evidence that the failings would not be repeated, therefore there remains a real risk of repetition. The panel determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore 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. It was of the view that a well-informed member of the public would be concerned if Mr Reeves were permitted to practise at this time. The panel determined that a finding of impairment also remains necessary on public interest grounds.

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

Decision and reasons on sanction

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

Having found Mr Reeves' fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Reeves' 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 Reeves' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a conditions of practice order on Mr Reeves' 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 noted the submissions made on Mr Reeves' behalf by the RCN to continue the existing conditions of practice order which the NMC supported. It also took note of Mr Reeve's reflective statement, dated 31 January 2024, which stated the following:

'...I would humbly request that the panel considers whether the conditions can be varied to make it less onerous as it is proving an obstacle to gaining employment to allow me to demonstrate remediation in full and rebuild my career, otherwise I feel it will be a never-ending cycle especially if I am unable to obtain work. But equally, I am happy for the Panel to

extend the current conditions to provide me with further time to obtain relevant work...'

The panel determined that it would be possible to formulate appropriate and workable conditions which would address the failings highlighted in this case. The panel accepted that Mr Reeves has made an effort to comply with conditions of practice, particularly condition three and has been engaging with the NMC, however it was of the view that due to his current employment status he has not had the opportunity to demonstrate safe practice and therefore has been unable to fully comply with conditions imposed at the original hearing.

The panel was of the view that a conditions of practice order is sufficient to protect patients and to address the wider public interest, noting as the original panel did that the misconduct related to clinical failings which are remediable. In this case, there are conditions which can be formulated which will be workable and suitably protect patients during the period they are in force and which meets the public interest.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of Mr Reeves' case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 15 March 2024.

The panel was of the view that Mr Reeves had met condition 3 in the existing order by completing training on medication management and administration, and recording. The panel therefore saw no need to continue this condition.

The panel was of the view that a competency assessment in relation to medication management and administration would now be relevant to reduce the risk and enable Mr Reeves to return to safe practice. Therefore, this requirement was added to condition 2 of the existing order.

It decided to impose the following conditions which it considered are workable, appropriate and proportionate in this case:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must not be the sole nurse in charge and must work alongside at least one registered nurse on the same shift, but not always directly observed by that registered nurse.

2. You must work with your line manager to create a personal development plan (PDP) to support you. Your PDP must address the concerns about record keeping and the management and escalation of unwell patients. The PDP must include a medications management and administration practical competency assessment.

- You must send your NMC case officer a copy of your PDP within 21 days of its creation.

- You must send your NMC case officer a report from your line manager prior to the next review of this order. This report must show your progress towards achieving the aims set out in your PDP.

3. You must meet with your line manager, mentor or supervisor at least monthly to discuss your progression with your PDP.

4. You must keep us informed about anywhere you are working by:

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

5. You must immediately give a copy of these conditions to:

- Any organisation or person you work for.
- Any agency you apply to or are registered with for work.
- Any employers you apply to for work (at the time of application).
- Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
- Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity

6. 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.

7. 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 current or future employer.

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

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 15 March 2024 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 Reeves 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 Reeves' continued engagement with the NMC;
- Mr Reeves' attendance at any future hearings;
- References or testimonials of any paid or unpaid work Mr Reeves has undertaken;
- Any evidence of further training Mr Reeves has undertaken;
- A further reflective statement demonstrating insight with particular reference to what Mr Reeves has learned from his training and how he has/will incorporate this into his practice; and
- The NMC to supply the panel with the first and second reflective statements enabling the panel to see the development of Mr Reeves' reflection.