

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

**Substantive Order Review Hearing
Tuesday 30 April 2024 – Wednesday 1 May 2024**

Virtual Hearing

Name of Registrant: Sara Ford

NMC PIN 17G2144E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nurse - Level 1 (October 2018)

Relevant Location: Somerset

Type of case: Lack of competence

Panel members: Adrian Smith (Chair, Lay member)
Claire Martin (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Melissa Harrison

Hearings Coordinator: Anya Sharma

Nursing and Midwifery Council: Represented by Uzma Khan, Case Presenter

Ms Ford: Present and unrepresented

Order being reviewed: Conditions of practice order (12 month)

Fitness to practise: Impaired

Outcome: **Conditions of practice order confirmed in accordance with Article 30 (2)**

Decision and reasons on service of Notice of Hearing

The panel invited Ms Khan to comment on correspondence within the Nursing and Midwifery Council (NMC) bundle which indicates that you have waived your right to 28 days' notice.

Ms Khan informed the panel that ordinarily in these types of proceedings, a 28-day period of notice is required, and the panel will see from the Proof of Posting bundle that the Notice of Hearing and all relevant hearing papers were sent to you on 23 April 2024. Following this, you had contacted the NMC and provided information regarding potential employment and potential courses. In respect of one of these courses, which is due to begin in May 2024, you wanted confirmation in respect to the conditions of practice as to whether or not you would be in a position to undertake that course and the subsequent employment.

Ms Khan set out that you were advised by the NMC that an early review hearing ought to proceed, as the course is due to begin in May 2024. You had a discussion via an email exchange on 11 April 2024 with the NMC Senior Monitoring and Compliance Officer as to whether or not the matter could proceed on a date that was available as soon as possible. You confirmed that you would like to have an early review of your conditions of practice order and that you were willing to accept a date within the next four weeks or earlier, if dates became available. As a result of that, as set out in an email exchange dated 12 April 2024, you confirm that you would be happy to attend a hearing, and asked for it to be before 13 May 2024, as that is the date you are due to start the course.

Ms Khan explained that the earliest available date was today, 30 April 2024, and you have attended and confirmed in the past that this was a suitable date. Ms Khan submitted that, by default, your attendance confirms that you have had notice of the hearing, are a willing participant and have waived your right to the 28-day period. She submitted that she would therefore invite the panel to proceed, as to do so would be in your best interest.

You informed the panel that you were happy for the hearing to go ahead.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that you had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on application to adjourn proceedings on 30 April 2024

As part of Miss Khan's opening of the case, she made submissions which suggested that the NMC sought to assert that you had breached the current order. You were given no notice of the NMC's intention to advance this position at the hearing in writing nor before the commencement of the hearing (albeit the panel understands the matter was raised briefly in preliminary discussions with the legal assessor and hearings coordinator present). As such, the panel became concerned that you were not aware of the case that would be put against you at today's hearing and the potential impact this may have had on your decision to waive your right to 28 days' notice of any review hearing. In the circumstances and having regard to the need for the hearing to be conducted fairly, the panel, of its own volition, sought submissions from you and Miss Khan as to whether today's hearing should be adjourned in order to allow you sufficient time to consider the NMC's current position.

Ms Khan set out that she has already made submissions in respect of a potential breach of your conditions of practice associated with a failure to inform the NMC as to other employment that is not nursing related. Ms Khan informed the panel that she withdraws all the submissions that were made in respect of you failing to potentially comply with that particular condition, as it is limited solely to those employments as defined in the conditions of practice order. Ms Khan submitted that she is not alleging on behalf of the NMC that there is any such breach associated with a failure to disclose non-nursing employment as set out in condition 7.

Ms Khan submitted that the NMC have acted entirely in good faith, and the background to this is that you had contacted the NMC in February 2024 and provided some information that relates to potential employment. As a result of that, you were advised accordingly, and some two months later at the beginning of April 2024 further conversation took place between you and the NMC. It was raised by you that the conditions were too restrictive, and the NMC informed you that you had the opportunity to make an application in respect of an early review of your current conditions of practice order.

Ms Khan submitted that the NMC have tried to act in your best interests, in order to try and accommodate an early review hearing so that you can properly put before a panel the difficulties associated with the current order before your course commences in May 2024.

Ms Khan submitted that it is the NMC's position in light of the information before the panel, which includes telephone call logs and emails from your employer that there is a potential that there has been a breach of your conditions of practice order. She submitted that the NMC are obliged to put this information before the panel as part of the early review process.

Ms Khan submitted that the panel can see from the information before it that correspondence in relation to this was made as recently as yesterday by way of a telephone call. The NMC could have decided that due to this information, the review hearing should not go ahead. She submitted that this would however have been to the detriment of you and against your own wishes. Ms Khan submitted that it may be that you do accept these breaches and the panel can take this into consideration. If these breaches are disputed, they can be investigated by the NMC and subsequently dealt with on another date, which does not preclude the panel from dealing with the review hearing today based on the information that it has before it, even if that information is that there is still potentially an NMC investigation that may take place in respect of those breaches.

Ms Khan submitted that it is the NMC's perspective that you have waived the 28-day notice period to benefit you, and that the NMC has complied in order to accommodate your request.

Ms Khan submitted that in these circumstances, the NMC is obliged to raise the concerns that it has, and that this is not in bad faith or to cause difficulties for you, but that information has to go before the panel, and it has done so. She submitted that in those circumstances, as it was you who asked for the early review and waived the 28-day notice period, she would invite the panel to continue and hear your application, as that is what you wanted from the outset.

You explained to the panel that you believe that you have done the right thing and should not be penalised for any unintentional breaches of the conditions of practice order. You set out that your NMC case officer was off work for three months, you had not been informed of this, and that it was not until you were able to speak to someone at the NMC in relation to your case, which is unfair to you.

You told the panel that you have worked very hard, and your employer Sirona Care and Health (Sirona) has been very supportive of you and given you the chance of having a band 3 role to work in and carry out your basic nursing skills. You stated that you are very grateful that they have provided you with the opportunity to do this and are looking forward to continuing your work.

You told the panel that you will not be asking for an adjournment, and if this matter is not concluded, you will leave nursing, as you cannot do this to yourself anymore.

The panel accepted the advice of the legal assessor.

In reaching its decision, the panel took into account all of the information before it and the submissions made by Ms Khan and you.

The panel was of the view that it should proceed with the hearing. It considered that the allegations of potential breaches which have been put forward by the NMC are no more than speculative at this stage, and the NMC have not raised formal charges of breach, they have just merely suggested it.

The panel noted that Ms Khan had stated in her submissions that the allegations surrounding potential breaches could be dealt with separately on another occasion.

The panel took account of the fact that both parties wish to proceed with the hearing, and it is also in the public interest to hear this case. The panel determined that it would proceed with the case, on the basis that it did not consider the NMC's position as set out by Ms Khan to constitute formal submissions that you had breached the current order. In the circumstances, the panel would proceed with the hearing on the basis that the NMC did not seek to assert at today's hearing that the order had been breached but instead that there may potentially have been a breach. The panel further acknowledged that in the absence of any formal submissions from the NMC that you had breached the current order, the panel was entitled to consider all the evidence presented at today's hearing which could include reaching the determination, of their own volition, that the order had been breached. The panel was satisfied that their decision on this matter meant that you were not disadvantaged by the hearing proceeding nor was there any unfairness to NMC as the regulator. Given the panel's decision to proceed in this manner, the issue of service of notice therefore falls away.

Decision and reasons on review of the substantive order

The panel decided to confirm the current conditions of practice order.

This order will come into effect immediately in accordance with Article 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is an early review of the substantive order imposed on 3 October 2023. This review is being held on your request, as you feel that the current conditions of practice order is too restrictive.

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 3 October 2024.

The current order is due to expire at the end of 31 October 2024.

The panel is reviewing the order pursuant to Article 30(2) of the Order.

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

That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

1. *On the following dates you failed to sign the MAR chart in respect of Patient A, once you had administered an analgesia patch:*

- a. ...
- b. ...
- c. ...
- d. 13 June 2019.

2. ...

- a. ...
- b. ...
- c. ...
- d. ...

3. *On 5 August 2019:*

- a. *Once you had administered Novomix to Patient B, you recorded the incorrect date on the patient records, namely 5 July instead of 5 August;*
- b. *Once you had changed a nephrostomy bag for Patient C, you recorded the incorrect date on the patient records, namely 5 September, instead of 5 August.*

4. *On 5 August 2019 you:*

- a. *Attempted to change an analgesia patch in respect of Patient D, which was not due to be changed until the following day;*
 - b. *...*
 - c. *...*
 - d. *You failed to re-arrange the appointment for Patient D to 6 August 2019.*

5. *On or around 14 August 2019 you failed to complete the following on an unknown patient:*
 - a. *Observations and/or*
 - b. *Waterlow, and/or*
 - c. *MUST, and/or*
 - d. *Pressure areas check, and/or*
 - e. *Care plan review.*

6. *On 14 August 2019 you failed to adhere to infection control practices, in that you:*
 - a. *Did not wash your hands before and/or after providing patient care;*
 - b. *Did not wash your hands after throwing away soiled measuring paper.*

7. *Between 29 April – 20 August 2019 you failed to carry out a clinical assessment when visiting an unknown patient, before attempting to handle the syringe driver.*

8. *Between 29 April – 20 August 2019 you:*
 - a. *...*
 - b. *Did not know the bladder wash out procedure when you attended Eastleigh Care home.*

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

That you a registered nurse:

9. ...

10...

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

The original panel determined the following with regard to impairment:

The panel found that patients could have been put at risk and could have been caused physical harm as a result of Mrs Ford's lack of competence. Mrs Ford's lack of competence had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel noted that Mrs Ford had taken the time to write a reflective piece. [PRIVATE]. The panel noted that although she had been made supernumerary, she was sometimes left to go out on her own. The panel applauded Mrs Ford for the way she carried on working after her resignation, albeit not as a registered nurse, despite the personal difficulties which she was experiencing. [PRIVATE].

The panel did however determine that Mrs Ford often appeared defensive. It was of the view that she could have been more understanding of the feedback which she received from her supervisors. It was disappointed that she did not attend the hearing other than to deliver a reproach to those in her Trust who were managing her. It would have been more helpful had she set out before the panel what led her to perform as found in respect of the several incidents. It would have

been helpful for the panel to have heard from her in respect of both insight and remediation and as to her current plans. It was of the view that the reflective piece was more a self-focused reflection, rather than addressing what impact her actions had on others.

In its consideration of whether Mrs Ford has taken steps to strengthen her practice, the panel took into account that if she was not working as a nurse, there would only be a limited amount of training that she could complete. It did note that she had completed training courses whilst she was working for the Trust, however it was not satisfied that the courses she had undertaken were particularly relevant.

The panel is of the view that there is a risk of repetition as there is currently no evidence that Mrs Ford has strengthened her practice as a nurse in respect of those matters which the panel has found proved. The panel did note that Mrs Ford had been working as a community carer; she explains that she now notes down what needs to be done so she does not miss anything. The panel recognised her that she is asserting that she is no longer not competent as a registered nurse as her practice has changed since the time she was working for the Trust. However, the panel could not accept these assertions as they were not explored in the hearing.

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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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 considered that the public would regard the lack of competence found by the panel to be a serious matter even in a newly qualified nurse. Further, if the

nurse in question does not attend the hearing to demonstrate that she has developed insight and strengthened her practice, the panel is placed in a position whereby it cannot reassure the public that the nurse has developed an appropriate approach to her shortcomings. That being the situation in this case, the panel determined that a finding of impairment on public interest grounds is also warranted.

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

The original panel determined the following with regard to sanction:

The panel took into account the following aggravating features:

- *Conduct which put patients at risk of harm;*
- *Lack of insight into the potential effects on patients, and;*
- *Intermittent attendance at the hearing.*

The panel also took into account the following mitigating features:

- *She made a number of admissions;*
- *She was newly qualified and new to community nursing;*
- *The level of support which she received at the Trust:*
 - *being allowed to fail on occasions, rather than being encouraged to learn;*
 - *supervisors not being aware of her level of training and competencies;*
 - *being permitted to work on her own when she was supernumerary;*
- *[PRIVATE]*
- *[PRIVATE]*
- *Subsequent training, and;*
- *Subsequent employment.*

Mrs Ford produced a limited number of testimonials. She explained that she had requested another from one of her client / patients, but she had run out of time.

The panel took some time to reflect on Mrs Ford's submissions. It was pleased that she had engaged with the panel in relation to sanction and recognised that it had, thereby, been enabled to understand her position more fully. It was apparent that she remains angered by the way she was managed in her first two nursing positions, complaining that she was not given the start in her nursing career that she considered she was entitled to receive, and described being discriminated against due to her age. Mrs Ford maintains that her decision not to follow the informal capability action plan and to resign was occasioned by her loss of confidence in her managers. Broadly the panel accepted those submissions. It did, however, note that she avoided accepting responsibility for mistakes which she admits she made.

Further the panel noted that Mrs Ford was exasperated by the NMC for having taken so long to arrange the hearing, while all the while she was subject to interim orders. Her first interim conditions of practice order was on 18 October 2019. She was made subject to an interim suspension order on 24 September 2020. This was then replaced on 16 September 2021 with an interim conditions of practice order which is still in place. She explained that this had compromised her opportunities to obtain employment as a nurse. Further she was astonished that the NMC sought the imposition of a conditions of practice order of 30 months, when she had been subject to an interim order of conditions for so long.

Again, the panel broadly accepted Mrs Ford's submissions in these regards. The NMC did not offer an explanation as to why the case had taken so long to get to a hearing. Further, and significantly, the NMC did not offer an explanation as to why it persisted in seeking a conditions of practice order for 30 months when that was its sanction bid – set out in the documentation served on Mrs Ford before the commencement of the hearing. Since then, it has offered no evidence in respect of the dishonesty charge and a number of charges were found not proved. Further, notwithstanding the findings, which the panel made at the second stage of the hearing, in respect of lack of competence, and impairment on public protection and

public interest grounds, the mistakes the subject of the case were matters which could have been addressed by appropriate management and care of the nurse in question.

The panel considered that these considerations have prevented Mrs Ford from moving forward with regard to her professional career as a nurse, although she has undertaken training. [PRIVATE], nor compromise her commitment to work and care for others, especially for the elderly and those suffering from dementia. She has demonstrated her resilience to the panel's satisfaction.

Turning to the sanctions, the panel considered that taking no action or imposing a caution order were not realistic. Mrs Ford has been out of nursing practice since August 2019; she made mistakes, even basic nursing mistakes. Neither Mr Smith nor Mrs Ford herself urged upon the panel either of these alternatives.

The panel next considered imposing a conditions of practice order. The panel took into account the relevant paragraph in the Sanctions Guidance, which refers in particular to the following:

- 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. The panel accepted that Mrs Ford would be willing to comply with conditions of practice. The panel concluded that a conditions of practice order was the appropriate sanction, although, for completeness's sake, it did consider a suspension order. It rejected the latter as it was of the firm view that Mrs Ford did not have any attitudinal issues, and that it was probable that she could return to safe practice after an appropriate period of conditions.

To make sure conditions of practice achieve their aim of public protection, in a way that's fair to the nurse, they should be relevant, proportionate, workable and measurable. For the conditions to be relevant, they should address the shortcomings identified by the panel. For the conditions to be workable and measurable, they should take into account the nurses ability to comply with them and the ability of those managing her to assess her performance. The conditions which the panel has determined to impose meet those objectives.

So far as the matter of proportionality is concerned, the panel has taken account of the following:

- The purpose of conditions is to protect the public;*
- Mrs Ford has been subject to an interim order for some four years, although she has not resumed her nursing career during that time;*
- Mrs Ford complains that she did not receive appropriate guidance at the start of her nursing career. She should therefore have access to a preceptorship programme in the nursing employment which she undertakes;*
- Her work as a nursing auxiliary has been in a challenging environment. That should stand her in good stead for resuming her nursing career, and;*
- Mrs Ford should be able to take a test of competence during that period or complete a Return to Practice course.*

Taking these matters into account, the panel determined that the conditions of practice order should be for 12 months. However, it accepted that there should be a review before the elapse of that period.

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.

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 limit your nursing practice to a single employer, not in the community, who can provide you with a preceptorship programme. This employer must not be an agency or bank.*
- 2. On commencement of your employment, you must undertake a preceptorship programme.*
- 3. You must ensure that you are supervised at any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by another registered nurse.*
- 4. You must meet with your line manager, supervisor, mentor or preceptor every month to discuss your clinical practice and performance, particularly in relation to:*

- *Medications management and administration;*
 - *Record keeping*
 - *Infection prevention and control;*
 - *Prioritisation or care, and;*
 - *Assessment of patients and care planning.*
5. *You must send a report to your case officer prior to any review hearing, from your line manager, supervisor, mentor or preceptor outlining your clinical practice and performance, particularly in relation to:*
- *Medications management and administration;*
 - *Record keeping*
 - *Infection prevention and control;*
 - *Prioritisation or care, and;*
 - *Assessment of patients and care planning.*
6. *[PRIVATE]*
7. *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.*
8. *You must keep us informed about anywhere you are studying by:*
- a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

9. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any employers you apply to for work (at the time of application).*
 - c) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

10. *You must tell your case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*

11. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
 - a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for 12 months.

Submissions

You explained to the panel that the reason why you have called for an early review of your substantive order is that you find the current conditions of practice order too restrictive. You told the panel that you have found it very difficult in the past to find employment, and you feel that life has moved on for you in the past four and a half years.

You told the panel that you have now found an employer, Sirona, who has provided you with the opportunity to be able to rectify what has gone on in the past and has given you the opportunity to complete the Return to Practice programme whilst working as a band 3. You explained to the panel that you hope that you can have a varied conditions of practice order put in place in order to allow you to do this, and that you see this as a safe and healthy way forward for you.

You told the panel that you have a very good team at Sirona who would be able to support you whilst you are going through the course and working as a band 3. You explained that there are daily and weekly handovers, and everyone is on hand if you need help. You said that you think that being in an environment like that is what you need, as your previous team was not like this. You told the panel that you have been working well and receiving good feedback. You read out an email to the panel dated 19 April 2024, which included some positive feedback from Ms 1.

You said that you feel more comfortable working in the community, and do not want to be working in the wards in the hospital, and this Return to Practice course will provide you with what you need to be able to work in the community and will include 450 hours of continual development and assessment.

You explained that you want to be able to complete the Return to Practice course as you cannot see there being much difference to completing a preceptorship programme. You said that you need to update your clinical skills, and this gives you the opportunity to gain the skills that are required and the competence to be able to go and work on

your own. You told the panel that if you do not have this opportunity, you will feel like you are 'backed into a corner'.

When asked whether you have completed any further reflections and training as requested by the original substantive panel, you told the panel that you have not had the time to do this, given that the early review took place quicker than you anticipated. You further told the panel that you have completed reflections in the past which you have shared with the NMC and have completed numerous training courses, including over the past four weeks with Sirona, which is ongoing.

You informed the panel that you have been conditionally accepted onto the course at the university. You explained that you wanted to first see what the outcome would be at this early review hearing of your conditions of practice order and would then proceed accordingly on that basis.

Ms Khan submitted that ultimately today the matter is listed for the panel by way of an early review as a result of your application. The panel today can assess whether the order that is currently in place continues to be required if it is satisfied that you remain impaired; that the order is necessary to protect the public from a risk of harm presented by the nurse; to maintain public confidence and declare an uphold proper standards of conduct and behaviour. Ms Khan referred the panel to the case of *Abrahaem v General Medical Council [2008] EWHC 183 (Admin)*, which sets out that ultimately the persuasive burden is on the practitioner at the review.

Ms Khan submitted that it is the NMC's view that you remain currently impaired, and an order therefore remains necessary in these circumstances. She submitted that there has been no remediation whatsoever and no courses have been undertaken since the imposition of this order. Ms Khan submitted that whilst you have referred to courses previous undertaken, these are also referred to in the original panel's decision, and that panel did not consider them to be relevant.

Ms Khan submitted that the two testimonials that are before the panel by way of two emails do in fact raise concerns about your practice. She submitted that these suggest

a tendency for rushing and not listening, which is ongoing and goes to the original concerns. Ms Khan submitted that you have presented in exactly the same way in your decision making. She submitted that there was ambiguity concerning the question of what and when you disclosed in respect of the application process for both the job and the Return to Practice course.

Ms Khan submitted that the panel has heard from Ms 1 and Ms 2 that had it been the case that they were aware of the conditions of practice order, they would not have offered employment to you. She submitted that this raises ongoing concerns in respect of your transparency over the fitness to practise matters.

Ms Khan submitted that you have perhaps rushed the process as you became aware that this Return to Practice course existed, and it was a possibility that you did not appreciate the differentiation between the preceptorship and the Return to Practice course. She submitted that additionally, you were unaware that Sirona were in a position to offer you the preceptorship, which would have been in line with your conditions. There did not seem to be any conversation or an understanding that existed of what was or was not available.

Ms Khan submitted that the panel is being asked by you to vary the current conditions of practice order, or perhaps even to remove them entirely. Ms Khan informed the panel that at the original substantive hearing, you had invited the panel to impose a conditions of practice order for a 12-month period, given your complaints about the lack of support and lack of supervision available.

Ms Khan submitted that no consideration has been given to the purpose of the conditions of practice order being imposed, and there is nothing before the panel to suggest that any new learning has been undertaken and that there has been a strengthening of practise.

Ms Khan submitted that it would seem that there has been a complaint recently in any event and would therefore submit that there is current impairment; there are ongoing

concerns; there is continuation of a risk; and the order with supervision continues to remain necessary without variation, notwithstanding the alleged potential breaches.

Ms Khan submitted that she appreciates that this panel does not wish to fact-find at this stage. She noted that the concerns in relation to breaches will need to be investigated separately by the NMC, and these are significant concerns that the panel will have to take into consideration today. Ms Khan submitted that there is nothing positive before the panel that would suggest that the substantive order should not continue.

Ms Khan submitted that the concerns and risk continues to remain and therefore impairment also remains. She submitted that there does not seem to be any efforts to remediate the regulatory concerns, and albeit the review was listed last minute, there was still sufficient time for testimonials or reflective pieces to have been undertaken as requested by the panel previously at the original substantive hearing. Ms Khan submitted that there does not seem to have been any consideration as to what the purpose of the conditions of practice order is and what the purpose of this review is, and it goes back to rushing and not listening, which ultimately will then present itself in patient care.

The panel also heard live evidence from the following witnesses called on your behalf:

- Ms 1: Integrated Network Team
Manager at Sirona
- Ms 2: People Partner at Sirona

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in

light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has also taken account of the oral evidence of Ms 1 and Ms 2, as well as the submissions made by Ms Khan on behalf of the NMC and the submissions made by you.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired.

The panel considered that the original panel in its written determination set out that whilst it had before it a reflective piece from you, that panel had no evidence before it that you had taken steps to strengthen your practice in light of the regulatory concerns. At this hearing, the panel considered that whilst you have referred the panel to positive testimonials in relation to your current employment as a healthcare assistant, there is no substantive evidence before it to show that you have taken steps to strengthen your practice since the original substantive hearing, nor were there any further reflections provided to this panel.

The panel further noted that it has no evidence of any insight from you, in particular to the impact of patients, relatives and colleagues on your lack of competence. The panel took into account that you had called for an early review of the order, and that this was provided to you by the NMC on short notice, but when asked about insight and steps taken during your submissions, you did not provide the panel with any updated information other than what you had provided to the last panel at the original hearing.

The panel noted that you are not currently practising as a nurse and are therefore unable to demonstrate compliance with the conditions of practice order. The panel took into account that whilst it had heard information that you are practising in a healthcare setting, it also heard evidence that you 'rush things' and 'do not pay attention to what people are saying'. The panel was therefore of the view that it does not have any evidence before it which demonstrates any improvement or development into your clinical skills and insight since the original hearing.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel has no new evidence before it to suggest that there has been a material change in the circumstances. In light of this, this panel determined that you remain liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found your 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 your 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 your lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence and no deep-seated attitudinal problems. In this case, conditions could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case.

Accordingly, the panel determined, pursuant to Article 30(2) to confirm the current conditions of practice order. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of

educational study connected to nursing, midwifery or nursing associates.

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

1. You must limit your nursing practice to a single employer, not in the community, who can provide you with a preceptorship programme. This employer must not be an agency or bank.
2. On commencement of your employment, you must undertake a preceptorship programme.
3. You must ensure that you are supervised at any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by another registered nurse.
4. You must meet with your line manager, supervisor, mentor or preceptor every month to discuss your clinical practice and performance, particularly in relation to:
 - a. Medications management and administration;
 - b. Record keeping
 - c. Infection prevention and control;
 - d. Prioritisation or care, and;
 - e. Assessment of patients and care planning.
5. You must send a report to your case officer prior to any review hearing, from your line manager, supervisor, mentor or preceptor outlining your clinical practice and performance, particularly in relation to:

- a. Medications management and administration;
- b. Record keeping
- c. Infection prevention and control;
- d. Prioritisation of care, and;
- e. Assessment of patients and care planning.

6. [PRIVATE]

7. 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.

8. You must keep us informed about anywhere you are studying by:

- a. Telling your case officer within seven days of accepting any course of study.
- b. Giving your case officer the name and contact details of the organisation offering that course of study.

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

- a. Any organisation or person you work for.
- b. Any employers you apply to for work (at the time of application).
- c. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

10. You must tell your case officer, within seven days of your becoming aware of:

- a. Any clinical incident you are involved in.
- b. Any investigation started against you.
- c. Any disciplinary proceedings taken against you.

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

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

The conditions of practice order will remain in place until the end of 31 October 2024.

Before the end of the period of the order, 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:

- A reflective piece setting out how your shortcomings whilst at the Trust will have impacted on patients and colleagues;
- Evidence of any ongoing training and any application of the new knowledge in nursing practice;
- Testimonials from colleagues and/or patients;
- Your attendance at a future review hearing of this order.

This will be confirmed to you in writing.

That concludes this determination.