

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

Substantive Hearing

Monday 25 – Friday 29 April 2022

Virtual Hearing

Name of registrant: Miss Sandy Lewis

NMC PIN: 19C01100

Part(s) of the register: Registered Nurse
Adult Nursing – 7 March 2019

Area of registered address: Dorset

Type of case: Lack of competence

Panel members: Nicola Jackson (Chair, Lay member)
Jennifer Childs (Registrant member)
Paul Leighton (Lay member)

Legal Assessor: Ian Ashford-Thom

Hearings Coordinator: Graeme King (25-26 & 29 April 2022)
Leigham Malcolm (27-28 April 2022)

Nursing and Midwifery Council: Represented by Laura Paisley, Case Presenter

Miss Lewis: Present and represented by Ms Mary-Teresa Deignan, Counsel instructed by the Royal College of Nursing

Facts proved by admission: Charges 1a, 1b, 1c, 1d, 1e, 1f, 2a, 2b, 2c, 3, 4a, 4b, 4c, 5a, 5b, 5c, 5d, 5e, 5f, 6, 7a, 7b, 7c, 8c, 9a, 9c, 10a, 10b, 10c, 10e, 10f, 11a, 11b, 11c, 11d, 11e, 11f, 11g, 11h and 11i

Facts proved: Charges 8a and 8b

Facts not proved: Charges 9b and 10d

Fitness to practise: Impaired

Sanction:

Conditions of practice order (18 months)

Interim order:

Interim conditions of practice order (18 months)

Details of charges

Between 3 April 2019 and 7 August 2019, you failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a Band 5 Nurse, in that you:

1. Whilst subject to a Personal Improvement Plan at C3 Ward, Poole Hospital NHS Foundation Trust between 3 April 2019 and 17 June 2019, you failed to pass the following objectives:
 - a. Effective and competent communication skills. **(Proved by admission)**
 - b. Effective written communication. **(Proved by admission)**
 - c. To demonstrate initiative at all times, in line with the expectations of a Band 5 Staff Nurse. **(Proved by admission)**
 - d. Effective team working. **(Proved by admission)**
 - e. Effective time management skills. **(Proved by admission)**
 - f. To demonstrate the ability to act on any NEWS scores appropriately and effectively. **(Proved by admission)**

2. On 15 April 2019, in respect of one of more unknown patients:
 - a. Did not complete tasks and/or handover information for discharge. **(Proved by admission)**
 - b. Did not communicate with the health care assistant during the shift. **(Proved by admission)**
 - c. Did not provide a full handover to the night staff. **(Proved by admission)**

3. On an unknown date in April 2019, whilst assisting a patient who was subject to infection control, you did not wear gloves and an apron when assisting the patient. **(Proved by admission)**

4. On 16 April 2019, in respect of one or more unknown patients you:
 - a. Did not complete discharge documentation for a patient who was due to be discharged on that day. **(Proved by admission)**
 - b. Did not communicate with the auxiliary nurse during the shift. **(Proved by admission)**
 - c. Did not contact the doctor and therapy team to obtain details for the patient's discharge. **(Proved by admission)**

5. On 21 April 2019 during a supervised shift, in respect of one or more patients you:
 - a. Did not communicate with the assigned Healthcare Assistant. **(Proved by admission)**
 - b. Did not complete tasks allocated to you by your supervisor, Colleague A. **(Proved by admission)**
 - c. Did not fully complete patient/nursing documentation. **(Proved by admission)**
 - d. Demonstrated a lack of understanding on how to complete fluid balance charts. **(Proved by admission)**
 - e. Did not provide a detailed handover to the staff in the nightshift. **(Proved by admission)**
 - f. Demonstrated poor communication skills with patients and colleagues. **(Proved by admission)**

6. Failed to pass the Non-IV Drug Calculations Test on 11 April 2019, 23 April 2019 and 30 April 2019. **(Proved by admission)**

7. On 25 April 2019, during a supervised shift, in respect of one or more unknown patients you:
 - a. Did not complete a fluid balance chart. **(Proved by admission)**
 - b. Did not check a number of unknown patient's cannulas and/or complete any VIP scores. **(Proved by admission)**
 - c. Incorrectly positioned an ECG lead. **(Proved by admission)**

8. On 14 May 2019, in respect of an unknown patient, you:
 - a. Did not escalate to a doctor that the patient had a heart rate of 125 bpm and an irregular heartbeat. **(Proved)**
 - b. Did not carry out observations on the patient when instructed. **(Proved)**
 - c. Did not check if the Healthcare Assistant had carried out any observations. **(Proved by admission)**

9. On 24 May 2019, in respect of an unknown patient, you:
 - a. Offered a patient Oramorph without checking the patient's airway. **(Proved by admission)**
 - b. Administered paracetamol without checking when it had last been administered. **(Not proved)**
 - c. Made no entries on the patient's fluid balance chart from 09:00 – 17:30. **(Proved by admission)**

10. On 5 June 2019, during a supervised shift, in respect of one or more unknown patients:

- a. Did not complete any entries in Patient A's fluid balance chart between 12.00 and 16.00. **(Proved by admission)**
- b. Did not sign the fluid balance chart. **(Proved by admission)**
- c. Did not fully complete the nursing and evaluation care plan for Patient A. **(Proved by admission)**
- d. Demonstrated poor record keeping, in that your writing was illegible. **(Not proved)**
- e. Commenced an enteral feed without receiving written confirmation from a doctor that the nasogastric tube was in the correct position. **(Proved by admission)**
- f. Carried out the task as described in charge 10e above when you were not competent to do so. **(Proved by admission)**

11. Whilst subject to a PIP (as updated) at Lulworth Ward, Poole Hospital NHS Foundation Trust between 13 June 2019 and 13 August 2019, you failed to pass the following objectives:

- a. Effective and competent communication skills. **(Proved by admission)**
- b. Effective written communication. **(Proved by admission)**
- c. To demonstrate initiative at all times, in line with the expectations of a Band 5 Staff Nurse. **(Proved by admission)**
- d. Effective team working. **(Proved by admission)**
- e. Effective time management skills. **(Proved by admission)**
- f. To demonstrate the ability to act on any NEWS scores appropriately and effectively. **(Proved by admission)**
- g. Safe and effective medication administration. **(Proved by admission)**
- h. To demonstrate an understanding of hospital policies and procedures
- i. Ability to use equipment safely. **(Proved by admission)**

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

Background

You were referred to the Nursing and Midwifery Council (NMC) on 24 September 2019 by Poole Hospital NHS Foundation Trust (the Trust)

You were first employed by the Trust on 5 November 2018 as a Band 4 Assistant Practitioner on Ward C3 (the Ward). The Ward is a surgical ward specialising in head and neck injuries, elective and emergency surgical admissions, and maxillofacial problems. You were working in a band 4 capacity whilst you undertook your Objective Structured Clinical Examination English exam in order to receive your NMC PIN. You subsequently joined the NMC register on 5 March 2019 and began a new role at the Trust as a Band 5 Staff Nurse on 7 March 2019.

During your first three months of practising as a registered nurse, concerns were raised regarding your level of competence. Some of the concerns raised related to:

- verbal and written communication
- teamwork
- time management
- general documentation
- medication administration; and
- basic observations.

You were placed on a Personal Improvement Plan (PIP) but advised the Trust that you were uncomfortable with your working environment and requested to be transferred to a different ward.

On 17 June 2019, you were moved to Lulworth Unit (the Unit) as this offered a less specialist area of nursing. The Unit is an elderly care unit which has patients admitted for social or palliative care reasons. The Trust decided that, due to the ongoing concerns, whilst working on the Unit you would act in the capacity of band 4. This meant you were not able to administer any medication.

On 7 August 2019, the Trust informed you that you had not met the objectives set within your PIP and that it was going to proceed with a formal disciplinary hearing. You resigned from the Trust on 13 August 2019.

Decision and reasons on facts

At the outset of the hearing, Ms Deignan advised the panel that you admit charges 1a, 1b, 1c, 1d, 1e, 1f, 2a, 2b, 2c, 3, 4a, 4b, 4c, 5a, 5b, 5c, 5d, 5e, 5f, 6, 7a, 7b, 7c, 8c, 9a, 9c, 10a, 10b, 10c, 10e, 10f, 11a, 11b, 11c, 11d, 11e, 11f, 11g, 11h and 11i. The panel therefore found these charges proved by way of admission.

Before making its decision on the disputed facts, the panel heard oral evidence from:

- Witness 1, Registered Nurse at the Trust

In reaching its decisions on the disputed facts, the panel considered all the oral and documentary evidence in this case, together with the submissions from Ms Paisley and Ms Deignan. It accepted the advice of the legal assessor.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will

be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

Charge 8a

8. On 14 May 2019, in respect of an unknown patient, you:

- a. Did not escalate to a doctor that the patient had a heart rate of 125 bpm and an irregular heartbeat.

This charge is found proved.

In considering this charge, the panel had regard to Witness 1's written statement dated 4 August 2021, Witness 1's oral evidence and a contemporaneous note made by Witness 1 dated 16 May 2019.

The panel noted that Witness 1's written statement stated:

'...one of the Registrant's [your] patients was struggling to cough up sputum and was breathless. The Registrant put the saturation monitor on the patient which showed the patient's heart rate as 125 and irregular. I asked the Registrant if the patient's heart rate had been 125 all day and she said yes. I asked if the doctors were aware, and the Registrant said she was not sure. I informed the Registrant that, as the nurse looking after this patient, she should have informed the doctors of this earlier in the day.'

The panel considered that Witness 1 provided reliable and credible evidence, and that she acknowledged when she could not recall certain facts. Further, it considered her written

statement and oral evidence to be consistent with the contemporaneous record she made two days after the incident that stated:

'I asked Sandy [you] if the patient's heart rate had been 125 all day and she said yes. I asked if the doctors were aware, and she was not sure.'

The panel noted that you do not dispute that you were the nurse responsible for the patient in question. It accepted Witness 1's evidence that you had answered 'yes' when questioned if the patient's heart rate had been '125 all day' and considered that you were aware of the patient's increased heart rate. The panel therefore considered that you were responsible for letting the doctors know about this patient's heart rate and irregular heartbeat, and it had no evidence before it to suggest that you had done so.

In view of the above, the panel was satisfied on the balance of probabilities that you did not escalate to a doctor that the patient had a heart rate of 125 bpm and an irregular heartbeat on 14 May 2019 and therefore found charge 8a proved.

Charge 8b

8. On 14 May 2019, in respect of an unknown patient, you:

b. Did not carry out observations on the patient when instructed.

This charge is found proved.

In considering this charge, the panel had regard to Witness 1's written statement dated 4 August 2021, Witness 1's oral evidence and a contemporaneous note made by Witness 1 dated 16 May 2019.

The panel noted that Witness 1's written statement stated:

'I asked if they [you and a Healthcare Assistant] could do a full set of observations on the patient after she had used the bedpan. A little while later I asked the Registrant [you] what the observations were, and she said that she had not done them and that she had not checked if [Healthcare Assistant] had done them either. I conducted the observations and highlighted them to the doctor to review.'

The panel considered that Witness 1 provided reliable and credible evidence, and that she acknowledged when she could not recall certain facts. Further, it considered her written statement and oral evidence to be consistent with the contemporaneous record she made two days after the incident that stated:

'I passed them [you and a Healthcare Assistant] the observation machine and asked if they could do a full set of observation on the patient after she had used the bedpan. A little while later I asked Sandy [you] what the observations were, and she had not done them or checked if [Healthcare Assistant] had done them. Therefore, I did the observations and highlighted them to the doctor to review.'

The panel noted that you do not dispute that you were responsible for this patient, and it considered that there is clear evidence of you having been instructed to carry out observations on this patient. The panel also considered that Witness 1, having '*passed you the observation machine*', had clearly instructed you to carry out the observations.

The panel noted that you were working alongside a Healthcare Assistant (HCA) at this time and considered that, as the nurse responsible for the patient, you had the duty to either carry out the observations yourself, or delegate this to the HCA and ensure that they had completed this. However, the panel had no evidence before it of you having delegated the task to the HCA, or of you having followed up with the HCA to ensure that they had carried out the observations.

In view of the above, the panel was satisfied on the balance of probabilities that you did not carry out observations on a patient when instructed to on 14 May 2019 and therefore found charge 8b proved.

Charge 9b

9. On 24 May 2019, in respect of an unknown patient, you:

b. Administered paracetamol without checking when it had last been administered.

This charge is found NOT proved.

In considering this charge, the panel had regard to Witness 1's written statement dated 4 August 2021, Witness 1's oral evidence and to a contemporaneous note made by Witness 1 dated 24 May 2019.

The panel noted that Witness 1's written statement stated:

'The Registrant [you] also started dispensing paracetamol without prior checking when it was last administered.'

The panel considered Witness 1's written statement to be consistent with the contemporaneous record she made on the same day as the incident that stated:

'She [you] also started dispensing paracetamol, without prior checking when it was last administered...'

The panel considered that there is clear and credible evidence of you having started to dispense paracetamol without having checked when it had last been administered. However, it did not consider that starting to dispense paracetamol constituted you having ‘administered’ it, as per the wording of this charge. The panel had no evidence before it to suggest that you administered paracetamol on 24 May 2019.

In view of the above, the panel was not satisfied on the balance of probabilities that you administered paracetamol without checking when it had last been administered on 24 May 2019 and therefore found charge 9b not proved.

Charge 10d

10. On 5 June 2019, during a supervised shift, in respect of one or more unknown patients:

d. Demonstrated poor record keeping, in that your writing was illegible.

This charge is found NOT proved.

In considering this charge, the panel had regard to Ms 1’s written statement dated 2 March 2020 and copies of the Trust’s records referred to in the charge.

The panel noted that Ms 1’s written statement stated:

‘...neither of us [Ms 1 and Ms 2] could decipher what the Registrant [you] had written because her handwriting was so difficult to read. In this instance I had to rely on my own memory of the shift as well as a prior conversation I had with a senior ward member about this patient to make sense of the Registrant’s notes.’

The panel had no reason to doubt Ms 1's evidence, but it considered that an assessment of a document's legibility is a subjective judgment.

The panel was able to read most of the records referred to in the charge and did not consider that your handwriting was drastically different in quality from other entries on these records, not made by you.

The panel also had regard to the fact that it was able to read these records on a photocopy of the original records and it considered that the photocopied versions are more likely than not to be of a lesser quality than the original versions.

In view of the above, the panel was not satisfied on the balance of probabilities that you demonstrated poor record keeping as a result of your illegible writing on 5 June 2019 and therefore found charge 10d not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether those facts it found proved amount to a lack of competence and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, it must determine whether the facts found proved amount to a lack of competence. Secondly, only if the

facts found proved amount to a lack of competence, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that lack of competence.

Submissions on lack of competence and impairment

The NMC has defined a lack of competence as:

‘A lack of knowledge, skill or judgment of such a nature that the registrant is unfit to practise safely and effectively in any field in which the registrant claims to be qualified or seeks to practice.’

Ms Paisley provided the panel with written submissions. She submitted that lack of competency needs to be assessed using a three-stage process:

- Is there evidence that you were made aware of the issues around your competence?
- Is there evidence that you were given the opportunity to improve?
- Is there evidence of further assessment?

Ms Paisley submitted that you had sufficient input and assistance from the Trust, including educational support, two PIPs, a number of other supportive nurses with whom to raise any issues, and supernumerary shifts and that you ought to have been practising at the standard of a Band 5 Nurse by the time of your resignation.

Ms Paisley then identified specific sections within The Code: Professional standards of practice and behaviour for nurses and midwives (2015) (“the Code”) where your actions amounted to a lack of competence. In the circumstances of your case, Ms Paisley invited the panel to take the view that the facts found proved amount to a lack of competence.

Ms Paisley then moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Paisley submitted that the panel would need to have a demonstration of your safe and effective practice as a nurse subject to the safe-guarding of the Code to conclude that your fitness to practise is not currently impaired. Further, she submitted that the panel should also consider whether there has been any real reflection and insight into the deficiencies in your practice.

Ms Deignan highlighted to the panel that you accepted all of the factual allegations at the outset of the hearing apart from the contested charges. She submitted that you have thought long and hard about the factual context in which the allegations arose, and you neither accept nor deny impairment on the basis of lack of competence.

Ms Deignan outlined your professional history, setting out that you qualified as a nurse in 2009 after studying at the University of the West Indies in Kingston, Jamaica. She informed the panel that you have now returned to Jamaica where you currently work as a nurse within the community. The panel heard that there have been no concerns raised about your nursing practice whilst working in Jamaica.

Ms Deignan referred the panel to several pieces of evidence to illustrate the '*practical, cultural and dynamic issues*' which she stated made it difficult for you to achieve what was required of you at the time. Namely, the contrast in technology between the UK and Jamaica, different working practices, and cultural norms within the hospital environment.

The panel accepted the advice of the legal assessor which included reference to the case of *Holton v GMC* [2006] EWHC 2960 (Admin).

Decision and reasons on lack of competence

The panel took account of the submissions of both Ms Paisley and Ms Deignan. When determining whether the facts found proved amount to a lack of competence, the panel had regard to the Code. The panel bore in mind, when reaching its decision, that you should be judged by the standards of the reasonable average Band 5 Registered Nurse and not by any higher or more demanding standard.

The panel was of the view that you had breached the following sections of the Code:

‘7 - Communicate clearly

To achieve this, you must:

7.1 - *Use terms that people in your care, colleagues and the public can understand*

7.2 - *Take reasonable steps to meet people’s language and communication needs, providing, wherever possible, assistance to those who need help to communicate their own or other people’s needs*

7.3 - *Use a range of verbal and non-verbal communication methods, and consider cultural sensitivities, to better understand and respond to people’s personal and health needs*

7.4 - *Check people’s understanding from time to time to keep misunderstanding or mistakes to a minimum*

8 - Work cooperatively

To achieve this, you must:

8.1 - *Respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate*

8.2 - *Maintain effective communication with colleagues*

8.3 - *Keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff*

8.4 - *Work with colleagues to evaluate the quality of your work and that of the team*

8.5 - *Work with colleagues to preserve the safety of those receiving care*

8.6 - *Share information to identify and reduce risk*

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:

10.1 - *Complete all records at the time or as soon as possible after an event, recording if the notes are written sometime after the event*

11 - Be accountable for your decisions to delegate tasks and duties to other people

To achieve this, you must:

11.3 - *Confirm that the outcome of any task you have delegated to someone else meets the required standard*

13 - Recognise and work within the limits of your competence

To achieve this, you must, as appropriate

13.1 - *Accurately assess signs of normal or worsening physical and mental health in the person receiving care*

13.2 - *Make a timely and appropriate referral to another practitioner when it is in the best interests of the individual needing any action, care or treatment*

13.3 - *Ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence*

13.5 - *Complete the necessary training before carrying out a new role.*

19 - Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.3 - *Keep to and promote recommended practice in relation to controlling and preventing infection*

The panel bore in mind the range and number of issues with your clinical practice, which you have accepted. It also bore in mind that there was a substantial amount of evidence in support of your lack of competence from a range of your colleagues.

The panel noted that initially you began working at the Trust as a Band 4 nurse, allowing you a period of time to adjust, and were later moved to a Band 5 role. Given this introductory period as a Band 4 nurse, along with all of the supplementary support and training, the panel was of the view that an average nurse would have been able to successfully fulfil the Band 5 role, which you did not. Moreover, even when transferred to a less challenging ward, the issues with your competencies persisted.

The panel had regard to the case of *Holton*, in particular that factors personal to the registrant whose performance is being assessed are irrelevant to the question whether competency is deficient, the test being objective in that sense. On the other hand, factors external to and independent of the registrant, such as professional isolation due to the lack or absence of colleagues are relevant factors. It accepted that you did not '*feel part of the team*' at the Trust. However, there was evidence before it that you were supported by a

range of colleagues, including a specialist whose job it was to assist nurses from outside of the UK to successfully adjust and adapt to different working practices and cultures.

In these circumstances and taking account of the reasons given by the panel for the findings of the facts, the panel has concluded that your practice fell significantly below the standard that one would expect of the average registered nurse acting in your role.

In all the circumstances, the panel determined that your performance demonstrated a lack of competence.

Decision and reasons on impairment

The panel next went on to decide if as a result of the lack of competence, your fitness to practise is currently impaired. Nurses occupy a position of privilege and trust in society. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. Nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case *Grant* in reaching its decision. In paragraph 74, she said:

'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.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'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 limbs a, b, and c of the above test to be engaged. The panel found that patients were put at risk as a result of your lack of competence. Your lack of competence had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Whilst the concerns in your case are remediable, there was no evidence before the panel that you have addressed or strengthened the deficiencies in your practice. It had no evidence, for example references or testimonials, of your safe practice since working as a nurse in Jamaica. Further, there was no evidence of any reflection or insight into your lack of competence. In fact, a number of the witnesses in your case stated that they were surprised to find that you did not feel you lacked competence, highlighting the absence of any insight.

In the circumstances, the panel considered it highly likely that the facts found proved would be repeated. It 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.

Given the large number and range of issues with your practice, the panel determined that, in this case, a finding of impairment on public interest grounds was also required.

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

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of 18 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC.

Submissions on sanction

Ms Paisley submitted that the issues in your case were wide ranging and too serious for the panel to consider either taking no action or imposing a caution order. She submitted

that the NMC considered a conditions of practice order for a period of 18 months, with a review, to be the appropriate sanction in your case.

Ms Deignan informed the panel that, in terms of sanction, she supported a conditions of practice order for a period of 18 months, with a review.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. It took account of the submissions made by both Ms Paisley and Ms Deignan. It also accepted the advice of the legal assessor.

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 bore in mind that the issues in your case relate to your competence as a nurse, and in all the circumstances, it considered there to be no relevant aggravating or mitigating factors. The panel noted your engagement throughout these proceedings despite the considerable time difference between your current location and the UK.

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

It then considered the imposition of a caution order but again determined that, similarly, due to the risks identified, an order that does not restrict your nursing practice would not be appropriate in the circumstances. The panel decided that a caution order would not be

proportionate, nor would it do anything to protect the public in view of the issues with your competence as a nurse.

The panel next considered whether placing conditions of practice on your nursing practice would be a suitable response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular the factors identified as likely to be present where conditions of practice may be appropriate:

- *'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;*
- *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 was sufficiently satisfied that you would be willing to comply with conditions of practice and it determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel determined that the most appropriate and proportionate sanction is a conditions of practice order because it would protect patients as well as support you in developing your clinical practice. The panel was also satisfied that this sanction would be sufficient to serve the public interest.

The panel considered a suspension order but decided that it would be disproportionate and would not be a reasonable response, in the circumstances of your case, as it would not assist you in developing your clinical skills or support you in achieving safe and effective nursing practice.

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 ensure that you are directly supervised by another registered nurse, more senior to you, any time that you are administering medication or undertaking ECG monitoring, until such a time as you are signed off as competent to do so unsupervised.
2. You must work with your manager, mentor or supervisor to create a personal development plan (PDP). Your PDP must address the following areas of your clinical practice:
 - a. Escalating concerns about deteriorating patients.
 - b. Caring for patients where specific infection control procedures are required.
 - c. Carrying out accurate observations of patients in a timely manner.
 - d. Ensuring that you have completed training for any procedures that you carry out.
 - e. Communication skills, both written and oral.
 - f. Initiative.
 - g. Documentation.
 - h. Time management.

Your PDP should contain specific examples and be signed by your supervisor each time.

3. You must meet with your manager, mentor or supervisor at least monthly to discuss these issues and your progress towards achieving the aims set out in your PDP.
4. You must provide the NMC with your PDP and a report regarding your progress against your objectives, from your manager, mentor or supervisor, prior to any review of this Order.
5. If working as a registered nurse in the UK, you must work under a preceptorship arrangement with direct supervision, until you are deemed competent to work safely and effectively alone and in line with your job description and are signed off by your employer.
6. 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.
7. 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.
8. You must immediately give a copy of these conditions to:
 - a. Any organisation or person you work for.
 - b. Any agency you apply to or are registered with for work.
 - c. Any employers you apply to for work (at the time of application).
 - d. Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

- e. Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity
9. 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.
10. 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 18 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:

- A detailed reflective statement.
- Workplace testimonials documenting safe and effective nursing practice.
- Your continued engagement in NMC proceedings.

Decision and reasons on interim order

As the substantive order cannot take effect until the end of the 28-day appeal period, the panel 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 your own interest until the conditions of practice sanction takes effect.

Ms Paisley invited the panel to impose an 18-month interim conditions of practice order for the same reasons as the substantive order has been imposed.

Ms Deignan acknowledged that the substantive order will not take effect until 28 days after this hearing concludes and submitted that she was neutral on the need for an interim conditions of practice order.

The panel 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 reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that the only suitable interim order would be that of an interim conditions of practice order and determined that the interim conditions of practice will mirror those detailed in the substantive order. It considered that to impose an interim suspension order would be inconsistent with its earlier findings.

The panel determined that the interim conditions of practice order will be for a period of 18-months to cover any 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 you are sent the decision of this hearing in writing.

This will be confirmed to you in writing.

That concludes this determination.