

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

**Substantive Order Review Hearing  
Tuesday 19 April 2022**

Virtual Hearing

<b>Name of registrant:</b>	<b>Saniya Raza</b>
<b>NMC PIN:</b>	16E0262E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 RNC Children’s Nurse (September 2016)
<b>Area of registered address:</b>	Cambridgeshire
<b>Type of case:</b>	Lack of competence
<b>Panel members:</b>	Debbie Hill (Chair, Lay member) Mary Karasu (Registrant member) Christopher Reeves (Lay member)
<b>Legal Assessor:</b>	Hala Helmi
<b>Hearings Coordinator:</b>	Safa Musad
<b>Nursing and Midwifery Council:</b>	Represented by Brad Lewis, Case Presenter
<b>Miss Raza:</b>	Not present and unrepresented
<b>Order being reviewed:</b>	Suspension order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Striking-Off Order to come into effect at the end of 24 May 2022 in accordance with Article 30 (1)</b>

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

As of 31 March 2020, a number of amendments to The 'Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004' (as amended) (the Rules) came into force, in response to the current Covid-19 pandemic.

As a result of these amendments the Nursing and Midwifery Council (NMC) is now able to serve notice of hearings by email and has the ability to hold hearings and meetings virtually.

The panel was informed at the start of this hearing that Miss Raza was not in attendance and that the Notice of Hearing had been sent to Miss Raza's registered email address on 18 March 2022.

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

Mr Lewis, 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.

In the light of all of the information available, the panel was satisfied that Miss Raza 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 Miss Raza**

The panel next considered whether it should proceed in the absence of Miss Raza. The panel had regard to Rule 21 and heard the submissions of Mr Lewis who invited the panel to continue in the absence of Miss Raza. He referred the panel to the factors set out in the

decision of *R v Jones* [2002] UKHL 5 and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and submitted that all reasonable efforts were made. Mr Lewis submitted that there has been no engagement by Miss Raza with the NMC in relation to these proceedings since the substantive hearing in 2018. Further, he submitted that there was no application for an adjournment made by Miss Raza and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Raza. In reaching this decision, the panel has considered the submissions of Mr Lewis, and the advice of the legal assessor. It has had particular regard to 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 Miss Raza;
- Miss Raza has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing;
- There is a history of non-attendance at previous hearings;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

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

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

The panel decided to impose a striking off order. This order will come into effect at the end of 24 May 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third effective review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee ('FtPC') panel on 19

December 2018. The first review was scheduled to take place on 20 December 2019 but was adjourned because there was insufficient time available to hear it. The rescheduled first review hearing took place on 23 January 2020, when the reviewing panel decided to impose a further conditions of practice order for 16 months. The order was last reviewed by a panel of the FtPC and the conditions of practice order was replaced with a suspension order imposed for a period of 12 months. The current order is due to expire at the end of 24 May 2022.

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 14 December 2016 signed to say the suction unit was working when you hadn’t checked the suction unit and it was actually faulty*
- (2) ...*

*That you, between 21 October 2016 and 24 January 2017, failed to demonstrate the standards of knowledge, skill and judgement required to practise without supervision as a band 5 paediatric staff nurse in that:*

- (3) ...*
- (4) On 24 October 2016 you administered two paracetamol doses to patient B without a signed prescription by a doctor*
- (5) On 29 December 2016 you calculated the amount of fluids that needed to be administered to a patient and;*
  - a) The amount of fluids you calculated was incorrect,*
  - b) You administered the incorrect amount of fluids to the patient*

(6) *On 6 January 2017 you incorrectly calculated a drug dose for Vigabatrin, twice*

(7) ...

(8) *On 10 January 2017 you were unable to operate a Glucometer correctly.*

(9) ...

(10) ...'

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

*'The panel considered whether Miss Raza's fitness to practise remains impaired. In reaching its decision, the panel was mindful of the overarching objective of the regulatory process to protect the public, and to uphold the wider public interest considerations of maintaining public confidence in the profession and declaring and upholding proper standards of conduct and performance.*

*The panel noted that, apart from Miss Raza's extremely brief email indicating that she did not propose to attend this hearing, there had been no communication from her since prior to the substantive hearing. There had therefore been no meaningful engagement from her for a period of around three years. As a result of this, the panel had no information about Miss Raza's current circumstances or her future intentions with regard to her nursing career. It had no information about what she has been doing since the substantive hearing, or about what (if any) steps she has taken to develop her insight into the issues of concern and take steps to address those issues. There was no information to suggest whether or not Miss Raza has any desire or intention to continue her nursing practice.*

*The panel noted that the panel at the substantive hearing had identified limited insight and a lack of evidence of steps taken to address the failings identified in this case. The panel at the first review hearing had found a lack of any evidence of development or progress in terms of insight and remediation. Both those panels had therefore identified an ongoing risk of repetition of the issues of concern, and a risk to the public. Because of the continued lack of engagement by Miss Raza, this panel had no evidence to undermine the decisions of the previous panels. For the same reasons as at the time of the first review, it considered that there was an absence of any evidence of progress or development in terms of insight and remediation.*

*The panel therefore concluded that the risk of repetition remains if Miss Raza were to be permitted to practise without restriction, and that Miss Raza's fitness to practise continues to be impaired on public protection grounds. It also considered that the public would expect a finding of current impairment to be made in circumstances where there were ongoing deficiencies in Miss Raza's clinical practice and an absence of evidence of development of insight or remediation of the issues of concern. The panel therefore determined that a finding of current impairment was also required on wider public interest grounds to maintain confidence in the nursing profession and the NMC as a regulator.'*

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

*'The panel next considered whether a conditions of practice order on Miss Raza's registration would be a sufficient and appropriate response. It noted that continuation of the current conditions would protect the public, and considered that the conditions which had been imposed by the previous panels had the potential to be workable and effective to address the concerns identified in this case. However, the panel noted that for conditions to be effective, the individual needs to be engaging and willing to participate in the process of remedying the concerns. Miss Raza is not engaging with that process, and had not provided evidence of compliance*

*with the conditions previously imposed, or any explanation of why she has not provided that evidence.*

*The panel acknowledged that the past year has been unprecedented because of the global pandemic. It acknowledged that it may have been a daunting prospect, both for Miss Raza and for any prospective employer, to engage a newly qualified nurse to work under conditions of practice at a time when it will inevitably be more difficult than usual to facilitate support and supervision. However there is no evidence whatsoever from Miss Raza to explain whether she has sought employment or not, and if not, why not. Had she engaged with the proceedings in order to explain what steps she had taken and proposed to take in future, it might have been possible to extend and/or vary the conditions. However in the absence of any information or explanation, the panel could have no confidence that Miss Raza is able or willing at the present time to engage with a process of remedying the deficiencies in her clinical practice whilst working under the supervision provided for by conditions of practice. In the circumstances, continuation of the conditions of practice order appeared to serve no useful purpose and no longer to be workable or appropriate, particularly in the absence of evidence of insight. The panel therefore concluded that it was not possible at this time to formulate workable conditions which would be sufficient to protect the public, address the concerns identified and satisfy the wider public interest considerations in this case.*

*The panel considered the imposition of a period of suspension. It was of the view that a suspension order would allow Miss Raza further time to reflect on the issues of concern identified in this case, and allow her to re-engage with the NMC and confirm whether she wishes to continue to practise as a registered nurse in the future and, if so, what she proposes to do to remedy her practice. The panel concluded that a 12 months suspension order would be the appropriate and proportionate response and would afford Miss Raza adequate time to develop her insight and identify the steps she needs to take to remedy her practice.*

*The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months.*

*The panel wished to emphasise to Miss Raza that it gave consideration to making a striking-off order in this case, as that sanction is now available because she has been subject to a substantive order for more than two years. In the absence of any further evidence from her since the substantive hearing, and with no meaningful engagement, there was very little to suggest that a period of suspension would achieve anything.*

*However, the panel decided that it would be disproportionate at this stage to strike Miss Raza off the register. In reaching that decision, the panel noted that Miss Raza had engaged to some extent prior to the substantive hearing and had provided some evidence of reflection and insight at that time, albeit limited. The panel noted that Miss Raza was newly qualified at the time of these events and may have found the prospect of embarking on a process of remediation a daunting one. The panel acknowledged that the period since the previous hearing had been a difficult one because of the global pandemic. Although it was disappointing that Miss Raza had disengaged from these proceedings, the panel considered that the failings identified in this case were remediable, and that at this stage, Miss Raza ought to be afforded a further opportunity to remedy them. It considered that the situation was not yet incompatible with ongoing registration.*

*However, the panel considered that it was important that Miss Raza should understand the risk that if she continues to disengage from these proceedings and to fail to provide evidence of development and progress, or of any desire to resume her nursing career, the time may come when a future panel feels that the situation has become incompatible with ongoing registration and that the available sanction options are far more limited. Any future reviewing panel will, like this panel, have the option of a striking-off order available to it. It is important that Miss Raza now takes this*

*opportunity to re-engage with the process, reflect on her future career intentions, and take the actions recommended below before the next review.*

*The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. The panel determined to impose the order for a period of 12 months to provide Miss Raza with an opportunity to engage with the NMC, demonstrate insight, and provide evidence of remediation. It considered this to be the most appropriate and proportionate sanction available.*

*This suspension order will take effect upon the expiry of the current suspension order, namely at the end of 24 May 2021 in accordance with Article 30(1) of the Order.*

*Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.*

*The next reviewing panel may be assisted by:*

- *Miss Raza's meaningful engagement with the NMC;*
- *Attendance or participation at the time of the next review hearing, whether in person, by telephone or virtually;*
- *A reflective piece from Miss Raza demonstrating insight and addressing the issues of concern identified in this case and their potential impact for patients, colleagues and the wider profession;*
- *Information from Ms Raza about what she has been doing since the substantive hearing, including any steps taken to remedy the deficiencies in her practice;*
- *An indication of Miss Raza's intentions in relation to her nursing career.*
- *Any up-to-date references or testimonials from any employment, whether paid or unpaid, and whether or not in a healthcare setting.*

*This decision will be confirmed to Miss Raza in writing.*

*That concludes this determination.'*

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

The panel has considered carefully whether Miss Raza's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's 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 taken account of the submissions made by Mr Lewis on behalf of the NMC.

Mr Lewis outlined the background of the case and referred the panel to the relevant documents in the bundle. Mr Lewis drew the panel's attention to the recommendations of the previous panel and noted that the 12 month suspension order was imposed to allow Miss Raza to re-engage with the NMC to determine whether she wanted to continue as a registered nurse and to also provide her with a further opportunity to remedy her failings before considering a strike-off.

Mr Lewis submitted that since the last review hearing, there has been no engagement nor communication by Miss Raza. He submitted that there has been no new information in relation to remediation. Mr Lewis submitted that there is nothing before the panel today to suggest that Miss Raza has remediated her practice or that she is no longer impaired.

Mr Lewis referred the panel to the case of *Abrahaem v General Medical Council* [2008] EWHC 183 (Admin). He informed the panel that the original panel found that Miss Raza had limited insight into her deficiencies and given the lack of engagement and information before the panel today, there is nothing to suggest that Miss Raza's insight has improved.

Mr Lewis submitted that Miss Raza's fitness to practise remains impaired and an order is necessary on the grounds of public protection and the wider public interest. Mr Lewis submitted that the panel may consider a striking-off order and he submitted that where there has been a repeated lack engagement, erasure from the register would not be disproportionate.

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 Miss Raza's fitness to practise remains impaired.

The panel noted that there has been no engagement or communication from Miss Raza in relation to these proceedings. The panel determined that there was no information before it in relation to Miss Raza's current circumstances. The panel had regard to the previous panel's decision and noted that the 12 month suspension order was imposed in order to allow Miss Raza to re-engage with the NMC to determine whether she wanted to continue as a registered nurse. However, given the lack of engagement, the panel had no information about what Miss Raza has been doing since the substantive hearing, or whether she has taken any steps to develop her insight or to address the concerns identified.

The panel determined that there was no evidence to suggest that Miss Raza has developed her insight or that Miss Raza has strengthened her practice. In light of this, this panel determined that the risk of repetition remains. 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 Miss Raza's fitness to practise remains impaired.

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

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

The panel first considered taking no action or imposing a caution order but it determined that, due to risk of repetition, and the public protection issues identified, an order that does not restrict Miss Raza's practice would not be appropriate in the circumstances. The panel therefore decided that it would be neither proportionate nor in the public interest to take no action or to impose a caution order.

The panel next considered whether a conditions of practice on Miss Raza's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the previous panel's decisions and concluded that Miss Raza did not engage with the previous conditions of practice order imposed. In view of Miss Raza's lack of meaningful engagement during the time for which conditions of practice order were in force, the panel considered that a further conditions of practice order would serve no useful purpose.

The panel next considered imposing a further suspension order. The panel noted that Miss Raza has not engaged with the NMC and there is no information to suggest that she has addressed any of the concerns identified. Further, Miss Raza has not demonstrated any progress or developed further insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Miss Raza no longer posed a risk to the public. The panel determined that given Miss Raza's lack of engagement, a further period of suspension would not serve any useful purpose. When, as here, Miss Raza's fitness to practise is impaired due to a lack of competence and she has consistently and repeatedly failed to engage with the NMC or provide any evidence that she has developed further insight or addressed the concerns identified, the only sanction

that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 24 May 2022 in accordance with Article 30(1).

This decision will be confirmed to Miss Raza in writing.

That concludes this determination.