Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 20 June 2022 – Thursday, 23 June 2022

Virtual Hearing

Name of registrant:	**Sophie Hussain**
NMC PIN:	14B0033E
Part(s) of the register:	Registered Nurse – Sub-part 1 Mental Health Nursing (March 2014)
Relevant Location:	Bradford
Type of case:	Misconduct
Panel members:	Adrian Smith (Chair, Lay member) Hartness Samushonga (Registrant member) Keith Murray (Lay member)
Legal Assessor:	Robin Leach
Hearings Coordinator:	Philip Austin (Day 1) Catherine Acevedo (Day 2 – 4)
Nursing and Midwifery Council:	Represented by Anthony James, Case Presenter
Miss Hussain:	Not present and not represented
Facts proved:	Charges 1, 2a, 2b, 2c, 2d, 3, 4a, 4b, 5b, 6a, 6b, 7, 8a, 8b
Facts not proved:	Charge 5a
Fitness to practise:	Impaired
Sanction:	Suspension order – 6 months
Interim order:	Interim suspension order – 18 months

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Hussain was not in attendance and that the notice of hearing letter had been sent to her registered address by post and recorded delivery on 5 May 2022. The 'Royal Mail Signed For' service confirmed that the notice of this hearing had been delivered to Miss Hussain's registered address and signed for in the name of '*S HUSSAIN*' on 7 May 2022.

Mr James, on behalf of the Nursing and Midwifery Council ("NMC"), submitted that the NMC had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ("the Rules").

The panel accepted the advice of the legal assessor.

The panel took into account that the notice of hearing provided details of the time, date and venue of the hearing and, amongst other things, information about Miss Hussain's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence. The panel noted that due to the current circumstances relating to COVID-19, today's hearing would take place remotely for practical reasons and to avoid unnecessary travel. Miss Hussain had been provided with the details relating to this virtual hearing, including the specific reference number, telephone number and access code, should she wish to participate.

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

The panel next considered whether it should proceed in the absence of Miss Hussain.

The panel had regard to Rule 21 (2) which states:

> (2) Where the registrant fails to attend and is not represented at the hearing, the Committee -
>
> (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;
>
> (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
>
> (c) may adjourn the hearing and issue directions.

Mr James invited the panel to continue in the absence of Miss Hussain on the basis that she had voluntarily absented herself. He referred the panel to the case of *General Medical Council v Adeogba [2016] EWCA Civ 162* and submitted that the panel should proceed with the hearing today unless there is a good reason not to do so.

Mr James informed the panel that Miss Hussain has engaged with these proceedings to an extent. He submitted that Miss Hussain had provided a response to one of the concerns identified, and that this is contained in the exhibit bundle before the panel. Furthermore, Mr James submitted that Miss Hussain had responded to the notice of hearing on 24 May 2022 confirming her attendance by email. However, Mr James submitted that since this date, the NMC has received no further correspondence from Miss Hussain.

Mr James submitted that the NMC Hearings Coordinator and NMC Case Coordinator had emailed Miss Hussain before the hearing commenced and had also attempted to contact her by telephone to no avail. He submitted that the NMC has taken all reasonable steps to engage Miss Hussain in this hearing.

Mr James informed the panel that two witnesses have attended today to give oral evidence to the panel. He submitted that adjourning this matter until a later date may inconvenience them, and it may also have a detrimental impact on their recollection of the alleged events.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised "*with the utmost care and caution*" as referred to in the case of *R. v Jones (Anthony William), (No.2) [2002] UKHL 5*.The panel took account of the guidance given in the case of *General Medical Council v Adeogba [2016] EWCA Civ 162*.

The panel noted that on 24 May 2022, Miss Hussain had emailed the NMC Case Coordinator stating:

> "*I will be attending the hearing and ive recieved the postal copys of the hearing dates*"[sic].

However, despite repeated attempts to contact her on Monday, 20 June 2022 by email and by telephone, Miss Hussain had not responded.

The panel was aware that the time had reached 10:30 hours. It was satisfied that it had allowed her sufficient time to contact the NMC, considering her attendance which was requested at 09:00 hours, as shown on the notice of hearing.

The panel decided to proceed in the absence of Miss Hussain. In reaching this decision, the panel considered the submissions of Mr James, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *Jones*. It had regard to the overall interests of justice and fairness to all parties. The panel noted that:

- Miss Hussain is aware of today's hearing, and knew how to contact the NMC if she had encountered difficulties in attending;
- no application for an adjournment has been made by Miss Hussain;
- there is no reason to suppose that adjourning would secure her attendance at some future date;
- Miss Hussain has responded to one of the concerns, as found in the paperwork;
- two witnesses have been requested to attend today to give live evidence;
- not proceeding may inconvenience the witnesses, any employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- the charges relate to events that occurred in 2019, and further delay may have an adverse effect on the ability of witnesses to accurately recall events;
- there is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Hussain in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge the live evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgment, this can be mitigated. The panel can take into account that the NMC's evidence will not be tested by cross examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, any disadvantage is the consequence of Miss Hussain's decisions to absent herself from the hearing, waive her rights to attend and/or be represented and to not provide evidence.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Miss Hussain. The panel will draw no adverse inference from Miss Hussain's absence in its findings of fact.

Details of charge

That you, a registered nurse, whilst working at Steeton Court Nursing Home:

1. On 22 May 2019, failed to sign for the administration of Co-Beneldopa to an unknown resident in room 5;

2. On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;

    a. Co-Beneldopa to a resident in room 5;
    b. Lorazepam to a resident in room 4;
    c. Thick and easy to a resident in room 7;
    d. Lactulose to a resident in room 17;

3. On 26 May 2019, failed to administer and/or sign for Calogen and Laxido to an unknown resident in room 40;

4. On 31 May 2019;

    a. At 12:00, failed to sign for any of the medication administered to residents;
    b. At 18:00, failed to sign for the administration of Flucloxacillin to an unknown resident in room 41;

5. On 12 June 2019;

    a. Signed to say that Laxido had been refused when there was, in fact, no Laxido stock in the medication trolley;
    b. Failed to administer Risperidone to an unknown resident in room 18;

6. On 22 June 2019, failed to sign for the administration of;

    a. Thick and easy to Resident A;
    b. Paracetamol and Lofepramine to Resident F;

7. On 9 July 2019, failed to administer a BuTrans pain-relief patch to Resident B;

8. On 17 July 2019;

    a. Left quetiapine, sodium valproate, and a vitamin tablet, the prescribed medication for Resident C, unattended in the presence of Resident C and Resident D;
    b. Failed to observe Resident C taking said medication;

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

Background

On 18 July 2019, the NMC received a referral about Miss Hussain's fitness to practise. Ms 1, Interim Manager, of Steeton Court Nursing Home ('the Home'), made the referral. At the time of the concerns raised in the referral, Miss Hussain was working as a Staff Nurse at the Home.

Miss Hussain's name was first entered onto the NMC Register in March 2014. She commenced employment on probation at the Home in May 2019.

The Home has two nursing units, one of which is the Heathcliffe unit. This caters for residents living with dementia and Miss Hussain worked in this unit most of the time.

Miss Hussain's role involved running shifts, leading the care assistants, giving medication, ordering medication, reading the diary and ensuring its contents were completed, and keeping file records up to date. Miss Hussain was also responsible for writing and updating care plans when required. Ms 1 was Miss Hussain's line manager. She summarised the concerns that she had with Miss Hussain's practice, namely:

- Failing to sign for medications on numerous occasions

Ms 1 says that, during the time Miss Hussain spent working at the Home, Miss Hussain had a supervision session with Ms 1. Ms 1 exhibits a copy of the supervision record sheet, signed by both Miss Hussain and Ms 1.

A supervision session, which took place on 13 June 2019 and a supervision record sheet was signed by both Miss Hussain and Ms 1. The record sheet listed a number of medications that Miss Hussain had not signed for. Ms 1 says that, when she discussed these with Miss Hussain, she accepted all the concerns.

Ms 1 subsequently conducted a medication audit and found further errors associated with Miss Hussain's medication practice after that supervision session. Ms 1 has been unable to provide the medication administration record ('MAR') charts.

A letter was sent by Ms 1 to Miss Hussain dated 10 July 2019, listing the medications that Miss Hussain had not signed for between 22 June and 9 July 2019. Ms 1 also provided some completed safeguarding alert forms and Care Quality Commission (CQC) notification forms relating to these errors.

No resident came to any harm. Ms 1 confirmed that Miss Hussain had completed a medication competency assessment on 5 June 2019.

Ms 1 provided the details of two further examples of Miss Hussain's alleged poor medication practice. On 9 July 2019, Miss Hussain allegedly failed to administer a weekly BuTrans pain-relief patch to a resident.

Ms 3 said that she discovered this error the following day, she double-checked the controlled drug record book and she noticed that there was no recorded signature from Miss Hussain and the pain-relief patch was still in the cupboard.

In addition, on 17 July 2019, Miss Hussain allegedly left a resident's quetiapine, sodium valproate and vitamin medication in front of the resident and walked away without checking that the resident had taken them. Another resident, who was sitting close by, allegedly took the medication and put it into her mouth; the resident was helped to spit the tablets out by the carers.

SR says that, following the incident on 17 July 2019, Miss Hussain was dismissed from the Home with immediate effect and no disciplinary hearing took place as she was on probation.

Decision and reasons on application to admit hearsay evidence

Mr James invited the panel to admit paragraph 9 of Ms 1's witness statement into evidence. He submitted that Rule 31 of The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules") permits the admission of evidence in so far as it is 'fair and relevant'.

Mr James submitted that in Ms 1's witness statement, she makes mention of an incident witnessed by Ms 2 which took place on 17 July 2019, involving Miss Hussain. Ms 1 was not a direct witness to Miss Hussain having left quetiapine, sodium valproate, and a vitamin tablet unattended in the presence of Resident C and Resident D, nor was she a direct witness to Miss Hussain failing to observe Resident C taking this medication. Ms 1 was allegedly informed about the incident by Ms 2.

Mr James informed the panel that the NMC did attempt to solicit Ms 2's participation in these proceedings on 6 April 2021. However, he submitted that Ms 2 communicated to the NMC that she had no recollection of the events and confirmed that she did not want to provide a witness statement.

Mr James referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)*, and submitted that this is not the sole and decisive evidence

in support of charge 8. He submitted that Ms 1 has provided a contemporaneous note dated 17 July 2019 as part of her evidence which corroborates with paragraph 9 of her NMC witness statement.

Mr James submitted that Miss Hussain has also provided an account of the alleged incident on 17 July 2019 which the panel are entitled to take account of. He submitted that Miss Hussain has had the opportunity to challenge this evidence if she disputes it, however, she does not appear to have done so, nor has she attended today to cross-examine Ms 1 on what she was told by Ms 2.

Mr James submitted that any potential unfairness to Miss Hussain in admitting paragraph 9 of Ms 1's NMC witness statement into evidence is minimal. He concluded by submitting that it would be fair to admit paragraph 9 in the particular circumstances of this case.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 of the Rules provides that, so far as it is '*subject only to the requirements of relevance and fairness*', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

In determining this application, the panel considered paragraph 9 of Ms 1's NMC witness statement to be relevant to the matters it was being asked to adjudicate upon in respect of charge 8. It noted that the allegations in charge 8 are serious as they relate to the inappropriate management and administration of medication.

The panel went on to consider whether it would be 'fair' to admit paragraph 9 of Ms 1's NMC witness statement into evidence.

The panel acknowledged that the NMC had only made a single attempt to contact Ms 2 in relation to these proceedings. However, it considered Ms 2 to have been clear in

expressing a willingness to disengage with the process as she was reluctant to provide an NMC witness statement.

The panel was of the view that whilst the evidence contained within paragraph 9 of Ms 1's NMC witness statement was not the sole evidence in support of charge 8, it did consider it to be relevant, as Ms 2 was a direct witness to the event. However, the panel was referred to the parts of the evidence that corroborates what Ms 1 was told by Ms 2, particularly in the contemporaneous note provided by Ms 1 that was completed on the day of the alleged incident, namely, 17 July 2019.

The panel noted that Miss Hussain has been given the opportunity to challenge Ms 1 about what she was told, but she has not set this out in the paperwork before the panel, nor has she attended the hearing to cross-examine Ms 1. Miss Hussain has provided an account relating to the aftermath of the concern which the panel noted that it could take account of in determining this charge.

The panel was satisfied that it would not be unfair to Miss Hussain to admit paragraph 9 of Ms 1's NMC witness statement into evidence. Miss Hussain had chosen to voluntarily absent herself from these proceedings and had not sought to challenge the evidence of Ms 1 in this respect. The panel decided that it would attach the appropriate amount of weight to this once all of the evidence has been reviewed and evaluated.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr James. The panel considered the evidence in respect of each charge separately.

The panel has drawn no adverse inference from the non-attendance of Miss Hussain.

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.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Ms 1: Interim Home Manager of Steeton Court Nursing Home

- Ms 3: Staff nurse at Steeton Court Nursing Home (the Emily Unit)

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

The panel then considered each of the charges and made the following findings.

Charge 1

That you, a registered nurse, whilst working at Steeton Court Nursing Home:

> On 22 May 2019, failed to sign for the administration of Co-Beneldopa to an unknown resident in room 5

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated that Co-Beneldopa had *"not been given on 22, 23rd @1800hrs"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Co-Beneldopa to an unknown resident in room 5 on 22 May 2019. The panel therefore found charge 1 proved.

Charge 2a)

> On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;

a. Co-Beneldopa to a resident in room 5;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated *"RM 5 – co beneldopa not been given on 22, 23rd @1800hrs"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Co-Beneldopa to an unknown resident in room 5 on 23 May 2019. The panel therefore found charge 2a proved.

Charge 2b)

> On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;
>
> b. Lorazepam to a resident in room 4;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated that *"Lorazepam has been entered onto the MAR chart and this has not been signed and dated"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Lorazepam to a resident in room 4 on 23 May 2019. The panel therefore found charge 2b proved.

Charge 2c)

On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;

c. Thick and easy to a resident in room 7;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record

sheet stated that *"RM 7 - thick and easy not signed for on 23rd May"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Thick and easy to a resident in room 7 on 23 May 2019. The panel therefore found charge 2c proved.

Charge 2d)

1. On 23 May 2019, failed to sign for the administration of the following medication to unknown residents;

    d. Lactulose to a resident in room 17;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated that *"RM 17 – lactulose not signed for on 23rd"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to sign for the administration of lactulose to a resident in room 17 on 23 May 2019. The panel therefore found charge 2d proved.

Charge 3)

> On 26 May 2019, failed to administer and/or sign for Calogen and Laxido to an unknown resident in room 40;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated that *"RM 40 - 26th, calogen not signed for"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel was not provided with any evidence of a failure by Miss Hussain to administer/sign for Laxido. The panel considered that it was more likely than not that Miss Hussain was responsible for and failed to administer and/or sign for Calogen to an

unknown resident in room 40 on 26 May 2019. The panel therefore found charge 3 proved in respect of the failure to administer/sign for Calogen only.

Charge 4a)

On 31 May 2019;

a. At 12:00, failed to sign for any of the medication administered to residents;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* The panel noted that the supervision record sheet stated that on 31 May 2019 *"All medications not signed for in the afternoon"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel considered that '12:00' as specified in the charge and 'afternoon' as stated by Ms 1 in the supervision record sheet both referred to the same afternoon medications. The panel considered that it is more likely than not that Miss Hussain was responsible for and failed to sign for any medication administered to residents at 12:00 on 31 May 2019. The panel therefore found charge 4a proved.

Charge 4b)

On 31 May 2019;

b. At 18:00, failed to sign for the administration of Flucloxacillin to an unknown resident in room 41;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* Ms 1's also said in her statement that for the resident in room 41, Flucloxacillin was not signed for at 18:00 on 31 May 2019. The panel

noted that the supervision record sheet stated that on 31 May 2019 *"RM – 41 – 31st Flucloxacillin not signed for"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Flucloxacillin to an unknown resident in room 41, at 18:00 on 31 May 2019. The panel therefore found charge 4b proved.

Charge 5)

On 12 June 2019;

a. Signed to say that Laxido had been refused when there was, in fact, no Laxido stock in the medication trolley;

This charge is found not proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy (the 5Rs) and if not signing for it as it has been refused she needs to write on the back".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* Ms 1's also said in her statement *"She also. According to my audit here, signed for a resident's Laxido (room 3) being refused when there was no stock in the trolley".*

The panel was not provided with the MAR chart for this resident.

The panel accepted Ms 1's evidence that Miss Hussain had written on the back of the MAR chart that the resident had refused the laxido as per the Home's medication policy. The panel considered that there was insufficient evidence that the resident had not refused Laxido. The panel considered that there being no stock of Laxido in the medications trolley did not indicate that the resident did not refuse Laxido or that what Miss Hussain had recorded was incorrect.

The panel was of the view that the NMC had not proved that there was a duty on Miss Hussain to not offer Laxido simply because it was not stocked in the medication trolley. The panel therefore found charge 5a not proved.

Charge 5b)

1. On 12 June 2019;

    b. Failed to administer Risperidone to an unknown resident in room 18;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took account of the supervision record sheet exhibited by Ms 1 dated 13 June 2019. Ms 1 said in her witness statement *"I note I have recorded several issues on the supervision regarding medication errors".* Ms 1's also said in her statement *"Did not give room 18's Risperidone as prescribed on 12 June 2018 at 18:00*". The panel noted that the supervision record sheet stated *"RM 18 not given risperidone as prescribed 12.6.19"* under the section *"What has not gone well since last supervision or in the last month?".*

Ms 1 stated that the concerns listed on the supervision record sheet were discussed with Miss Hussain on 13 June 2019 and Miss Hussain accepted them all in a *'casual way'.* The panel was not provided with the minutes of the meeting. However, it noted that Miss Hussain had signed the supervision record sheet.

The panel was not provided with the MAR chart for this resident.

The panel considered that by signing the supervision record sheet Miss Hussain appeared to accept the issues listed by Ms 1 regarding medication errors.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to administer Risperidone to an unknown resident in room 18 on 12 June 2019. The panel therefore found charge 5b proved.

Charge 6a)

On 22 June 2019, failed to sign for the administration of;

a. Thick and easy to Resident A;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took into account the medication exhibited by Ms 1 dated 10 July 2019.
Ms 1 said in her statement *"I subsequently did a medication audit and I found a number of errors on MAR charts for residents which I list in a letter".* The panel had site of the audit letter which stated *"RM 51 – thick and easy not signed for on 22nd June".*

The panel had sight of CQC notification which stated "*During an audit which took place on 10th July, it was noticed that [Miss Hussain] had not signed for a thickening agent which is used for drinks. This was on date 22nd June".* The CQC notification also stated that *"This had been discussed with [Miss Hussain] and a letter has been sent detailing all the missing dates".*

The panel also had sight of the safeguarding alert for Resident A dated 15 July 2019 which corroborated that Miss Hussain had not signed for thick and easy for Resident A on 22 June 2019.

The panel was not provided with the MAR chart for this resident.

The panel could find no evidence of Miss Hussain challenging the medication audit.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to sign for the administration of thick and easy to Resident A on 22 June 2019. The panel therefore found charge 6a proved.

Charge 6b)

On 22 June 2019, failed to sign for the administration of;

b. Paracetamol and Lofepramine to Resident F;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took into account the medication audit exhibited by Ms 1 dated 10 July 2019. Ms 1 said in her statement *"I subsequently did a medication audit and I found a number of errors on MAR charts for residents which I list in a letter".* The panel had site of the audit letter which stated *"RM 48 – paracetamol not signed for on 22nd June"* and *"RM 48 - Lofepramine not signed for on 22nd June".*

The panel had sight of the safeguarding alert for Resident F dated 16 July 2019 which corroborated that Miss Hussain had not signed for the medication paracetamol and Lofepramine to Resident F on 22 June 2019.

The panel was not provided with the MAR chart for this resident.

However, the panel could find no evidence of Miss Hussain challenging the medication audit.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to sign for the administration of Paracetamol and Lofepramine to Resident F on 22 June 2019. The panel therefore found charge 6b proved.

Charge 7)

On 9 July 2019, failed to administer a BuTrans pain-relief patch to Resident B;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1 and Ms 3.

Ms 1's evidence is that *"As a registered nurse it is [Ms Hussain's] responsibility to ensure she signed for administering medication as per the Home's medication policy".* The panel had sight of the medication policy.

The panel took into account the medication audit exhibited by Ms 1 dated 10 July 2019. Ms 1 said in her statement *"[Miss Hussain] failed to administer a butrans pain patch to*

Resident B". She also stated *"[Miss Hussain's] signature (which I recognise) was not on the resident's MAR chart under 9 July 2019 as having signed for administering the patch"*.

The panel had sight of Resident B's MAR chart which corroborated that no BuTrans pain-relief patch had been administered to the resident on 9 July 2019 by Miss Hussain.

The panel also noted that Ms 3's said in her statements *"There was no signature in the book and I realised that the patch had not been administered. I went and checked in the controlled drug book and cupboard. The pain patch was still there*".

"To administer the patch two nurses need to sign for it… I discovered this incident the next day on 10 July 2019".

The panel could find no evidence of Miss Hussain challenging the medication audit.

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure medication administration was signed for as per the Home's medication policy and procedure and that she had failed to do so. The panel also accepted Ms 3's account of the incident.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to administer a BuTrans pain-relief patch to Resident B on 9 July 2019. The panel therefore found charge 7 proved.

Charge 8a)

On 17 July 2019;

a. Left quetiapine, sodium valproate, and a vitamin tablet, the prescribed medication for Resident C, unattended in the presence of Resident C and Resident D;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1 said in her statement *"I also referred to the NMC allegations that on 17 July 2019 when [Miss Hussain] was working on the dementia (Heathcliffe unit) the registrant had left a dementia patient Resident C quetiapine, sodium valproate, and a vitamin tablet medication in front of the resident and walked away without observing the resident taking the medication which is breach of the medication policy at the Home".* The panel had sight of the medication policy.

Ms 1's evidence was also that she had been told by a care worker, [Ms 2] that the registrant had left 08:00 medications intended for Resident C to take 50mg *quetiapine (which makes you sleepy), 200mg sodium valproate (which would also make a resident sleepy), and a vitamin tablet (I think it was a multi vitamin tablet) in front of another resident". She also stated "Resident D was sitting next to Resident C on the dining table area. [Miss Hussain] had left the medication in a little medicines cup for Resident C to take on that dining room table and I understand the registrant walked away without observing Resident C taking the medication".*

In her response to the regulatory concerns dated 7 January 2020 Miss Hussain's stated *"I kept the tablets that was spat out of patients mouth- they did not dissolve as I have them as evidence. Also I contacted Doctor of the patient to inform them for contraindications that may have affect the individual. Doctor stated they were fine as they will not interact with current medication patient is on and to monitor vital sights. This was demonstrated also documented".*

The panel had previously decided that it would attach the appropriate amount of weight to Ms 1's hearsay evidence from Ms 2 once all of the evidence has been reviewed and evaluated. It determined to attach a reasonable amount of weight to the hearsay evidence as it corroborated other evidence including Miss Hussain's evidence.

The panel considered that Miss Hussain, from her response, had accepted that she left the medication unattended in the presence of Resident C and Resident D.

The panel determined that it is more likely than not that Miss Hussain Left quetiapine, sodium valproate, and a vitamin tablet, the prescribed medication for Resident C, unattended in the presence of Resident C and Resident D on 17 July 2019. The panel therefore found charge 8a proved.

Charge 8b)

On 17 July 2019;

a. Failed to observe Resident C taking said medication;

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1.

Ms 1 said in her statement *"I also referred to the NMC allegations that on 17 July 2019 when [Miss Hussain] was working on the dementia (Heathcliffe unit) the registrant had left a dementia patient Resident C quetiapine, sodium valproate, and a vitamin tablet medication in front of the resident and walked away without observing the resident taking the medication which is breach of the medication policy at the Home".* The panel had sight of the medication policy.

Ms 1's evidence was also that she had been told by a care worker, Ms 2 that Miss Hussain had left 08:00 medications intended for Resident C to take in front of another resident. She also stated *"I understand the registrant walked away without observing Resident C taking the medication".*

The panel also took into account Miss Hussain's evidence in her response to the regulatory concerns dated 7 January 2020 which stated *"I kept the tablets that was spat out of patients mouth- they did not dissolve as I have them as evidence. Also I contacted Doctor of the patient to inform them for contraindications that may have affect the individual. Doctor stated they were fine as they will not interact with current medication patient is on and to monitor vital sights. This was demonstrated also documented".*

The panel accepted Ms 1's evidence that Miss Hussain had a duty to ensure that she observed the resident taking the medication as per the Home's medication policy and procedure and that she had failed to do so.

The panel had previously decided that it would attach the appropriate weight to Ms 1's hearsay evidence from Ms 2 once all of the evidence has been reviewed and evaluated. It determined to attach a reasonable amount of weight to the hearsay evidence as it corroborated other evidence including Miss Hussain's evidence. The panel considered that Miss Hussain, from her response, had accepted that she did not observe Resident C take the medication as the wrong resident had managed to take the medication.

The panel determined that it is more likely than not that Miss Hussain was responsible for and failed to observe Resident C taking said medication on 17 July 2019. The panel therefore found charge 8b proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Hussain's 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, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Hussain's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

Mr James invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) and identified the specific, relevant standards where Miss Hussain's actions amounted to misconduct. He also referred the panel to breaches of the Home's overarching medication policy and procedure. He submitted that the concerns involved multiple errors in respect of medication administration and failure to sign for medication which subsequently put residents at risk of receiving incorrect doses of their medication.

Mr James submitted that Ms Hussain's actions fell below the standard expected of a registered nurse and amounted to misconduct.

Submissions on impairment

Mr James 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 also included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr James informed the panel that Miss Hussain had previously been referred to the NMC on two occasions. In 2016 Miss Hussain was referred in relation to concerns regarding dishonesty and one charge which involved a record keeping failure. He informed the panel that a second referral in 2017 involved a medication failure where Miss Hussain fell asleep whilst on duty, leaving the medication room unlocked without having the keys on her person. Mr James told the panel that a 12 month suspension order was imposed. A reviewing panel found Miss Hussain's fitness to practise no longer impaired in January 2019 and revoked the order. The incidents pertaining to this hearing occurred in June and July 2019.

Mr James submitted that there had been little engagement by Miss Hussain with the NMC and there was no evidence from her that she had improved her practice. He submitted that being subject of previous regulatory findings has not prevented subsequent failures in her nursing practice and there is a risk of repetition and a risk of harm.

Mr James submitted that a finding of impairment is necessary on the grounds of public protection and also on public interest grounds to maintain public confidence in the profession and uphold proper professional standards.

The panel accepted the advice of the legal assessor.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Miss Hussain's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Hussain's actions amounted to breaches of the Code. Specifically:

"1 Treat people as individuals and uphold their dignity

To achieve this, you must:

***1.2** make sure you deliver the fundamentals of care effectively*

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

6 Always practise in line with the best available evidence

To achieve this, you must:

***6.2** maintain the knowledge and skills you need for safe and effective practice*

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 some time after the event*

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

To achieve this, you must:

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

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

To achieve this, you must:

19.1 *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

The panel also took into account the Home's overarching medication policy and procedure. The panel considered that Miss Hussain's failures also breached the objectives set out in the policy.

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Miss Hussain's conduct was serious and occurred on numerous occasions over a short period of time that she worked at the Home. Although there was no patient harm, the panel considered that Miss Hussain's failure to sign for medication could have resulted in other nurses issuing the medication she may have already given but not signed for, putting vulnerable residents at risk of being overdosed. Her failure to administer medication could have left residents without prescribed medication. The panel also considered that Miss Hussain's failure to observe Resident C taking their medication which resulted in Resident D attempting to take this medication put both residents at risk of harm.

The panel found that Miss Hussain's actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Hussain's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They 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 of *CHRE v NMC and 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 that limbs a, b and c were engaged in the *Grant* test. The panel found that patients were put at risk of suffering harm as a result of Miss Hussain's misconduct. The panel considered that Miss Hussain's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Hussain had taken steps to strengthen her practice. The panel took into account that there had been little engagement from Miss Hussain with the NMC regarding these proceedings. The panel had not received any evidence from Miss Hussain regarding insight or remorse or how she had strengthened her practice since these incidents. The panel saw no evidence of any training undertaken or evidence of reflection.

The panel was made aware of the fact that Miss Hussain had been subject to two previous referrals which included clinical concerns regarding medication and record keeping. The panel noted that despite those proceedings and outcome, further failures in Miss Hussain's medication and record keeping were identified within a few months of her return to practice and subsequently found proved.

The panel is of the view that there is a real risk of repetition based on the lack of evidence of Miss Hussain's insight and how she had strengthened her practice. 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 and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

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

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

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 6 months. The effect of this order is that the NMC register will show that Miss Hussain's registration has been suspended.

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. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr James submitted that a conditions of practice order for a period of 24 months would be the appropriate order in this case. Mr James outlined for the panel what the NMC considered were the aggravating and mitigating features of Miss Hussain's case. Mr James then went on to ask the panel to consider which sanction to impose starting from the least restrictive.

He submitted that to impose a caution order or to take no further action was not appropriate considering the risk to patients identified.

Mr James addressed the panel on a conditions of practice order. He submitted that the misconduct in this case was capable of being addressed as all the concerns involved clinical errors in medication administration and record keeping. He submitted that the issues are clearly identified and remediable and can therefore be suitably addressed by a conditions of practice order. He submitted that a conditions of practice order would address the public protection and public interest concerns. He submitted that the order would be subject to a review or even an early review if there is a change in circumstances.

Mr James submitted that a suspension order or striking-off order would not be appropriate considering the risks identified. He submitted that the risk can be managed by the least restrictive sanction to protect the public which is that of a conditions of practice order.

Decision and reasons on sanction

Having found Miss Hussain's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Miss Hussain's misconduct put vulnerable patients at risk of suffering harm.
- Miss Hussain has had two previous regulatory findings against her which included errors around medication and record keeping.
- Miss Hussain's misconduct involved multiple clinical errors of a similar nature which took place in a short space of time.
- Miss Hussain has demonstrated a pattern of conduct over a period of time.
- Miss Hussain has provided no evidence of insight or how she has strengthened her practice.

The panel also took into account the following mitigating features:

- Although it was not presented with full details of the matters, the panel acknowledged that there were issues at the Home. These included the Home being referred to the regulator the CQC and a manager leaving the Home. These factors potentially had an adverse effect on the management of and support for staff at the Home.

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 neither protect the public nor be 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 Miss Hussain's 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 Miss Hussain's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Hussain'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 took into account the SG.

The panel noted that there were identifiable areas of Miss Hussain's practice in need of retraining and that conditions might be formulated that could address these. However, the panel was concerned that it had heard no evidence from Miss Hussain regarding any insight or remorse for her failures, what she had done since the incidents to strengthen her practice or her potential willingness to respond positively to retraining.

In the absence of any information from Miss Hussain, the panel is of the view that there are no practical or workable conditions that could be formulated that would address the risks identified.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel considered that Miss Hussain's misconduct was not a single instance of misconduct but involved multiple errors which were similar in nature and occurred over a short period of time. The panel also noted that Miss Hussain had regulatory findings

involving errors in medication and record keeping in 2016 and 2017. The panel saw no evidence from Miss Hussain that she had insight into her failings.

However, the panel was satisfied that in this case the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension order may have a punitive effect, it would be unduly punitive in Miss Hussain's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Miss Hussain. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr James in relation to the sanction that the NMC was seeking in this case. However, the panel determined that without any information from Miss Hussain it could not be satisfied that she does not pose a significant risk of repeating her behaviour.

The panel determined that a suspension order for a period of 6 months was appropriate in this case, to mark the seriousness of the misconduct and to give Miss Hussain time to engage and provide the NMC with information regarding her future intentions in nursing.

At 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.

Any future panel reviewing this case would be assisted by:

- Miss Hussain’s attendance at the review hearing
- A reflective statement addressing her misconduct.
- Testimonials or references from any employment paid or unpaid
- Evidence of any relevant training undertaken.

This decision will be confirmed to Miss Hussain in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Hussain’s own interest until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr James. He submitted that an interim order is necessary on the grounds of public protection and is otherwise in the public interest to cover the appeal period.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the period for appeal.

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

That concludes this determination.