Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
22-25 March 2022

Virtual Meeting

Name of registrant:	Mrs Parveen Fatima
NMC PIN:	05F0359O
Part(s) of the register:	Registered Nurse Sub part 1 RN1: Adult nurse, level 1 (10 June 2005)
Area of registered address:	Lancashire
Type of case:	Lack of competence
Panel members:	Deborah Hall (Chair, Registrant member) Shorai Dzirambe (Registrant member) Lorraine Wilkinson (Lay member)
Legal Assessor:	Charles Conway
Hearings Coordinator:	Monsur Ali
Facts proved:	Charges 1a)i, 1a)ii, 1b)iv, 1b)v, 1c)ii, 1c)iii, 1c)vi, and 1c)vii
Facts not proved:	Charges 1b)i, 1b)ii, 1b)iii, 1b)vi, 1b)vii, 1b)viii, 1b)ix, 1b)x, 1b)xi, 1b)xii, 1b)xiii, 1b)xiv, 1c)i, 1c)v, 1c)vi, 1c)vii, 1c)viii, 1d)i, 1d)ii, 1d)iii and 1d)iv
Fitness to practise:	Impaired
Sanction:	Suspension order (12 months)
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel considered whether notice of this meeting has been served in accordance with Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004

The panel received the Notice of Service bundle and noted that this was the wrong bundle, relevant to an interim order. It received another bundle which had incorrect dates on it, indicating it was signed on 31 February 2022. The panel then received a third bundle with the correct dates and right documents. The correct Notice of Service bundle indicated that the notice of this meeting was sent to Mrs Fatima's email address on 10 February 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, date after which the meeting would take place, and the date by which Mrs Fatima must provide any documentary evidence that she wishes to place before the panel.

In the light of all of the information available, the panel was satisfied that Mrs Fatima has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Rules.

Details of charge

That you, a registered nurse, whilst employed by Northwood Nursing and Residential Care Home ('the Home') between June and July 2020:

1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

a) On 22 June 2020:
i. having administered medication to residents, failed to sign the residents' MAR charts. **[PROVED]**
ii. Failed to administer levetiracetam to a resident. **[PROVED]**

b) On 29 June 2020:

i. Attempted to administer Tinzapine [sic] to Resident A when Levomenpromazine was prescribed. **[NOT PROVED]**

ii. Failed to administer two unknown medications to Resident A. **[NOT PROVED]**

iii. Attempted to administer a sub-cutaneous injection to Resident A with an inappropriately sized needled. **[NOT PROVED]**

iv. Were unable to correctly calculate the amount of medication required by Resident A. **[PROVED]**

v. Were unable to draw up the correct amount of medication required by Resident A. **[PROVED]**

vi. Drew up medication for Resident B using an unsafe technique. **[NOT PROVED]**

vii. Failed to administer Resident B's pre-podded morning medication. **[NOT PROVED]**

viii. Failed to administer Resident B's pre-podded afternoon medication. **[NOT PROVED]**

ix. Drew up medication for Resident C using an unsafe technique. **[NOT PROVED]**

x. Attempted to administer another resident's paracetamol to Resident D. **[NOT PROVED]**

xi. Failed to administer Resident E's pre-podded medication. **[NOT PROVED]**

xii. Failed to administer Resident E's eye drops. **[NOT PROVED]**

xiii. Failed to administer Resident F's Metformin. **[NOT PROVED]**

xiv. Attempted to administer eye drops to Resident F when eye drops were no longer prescribed. **[NOT PROVED]**

c) On 1 July 2020:

i. Failed to administer Fexofenadine, Finasteride and Ferrous Sulphate to Resident G. **[NOT PROVED]**

ii. Inaccurately signed Resident G's MAR chart to indicate that you had administered the resident's lunchtime medication when you had administered the resident's morning medication. **[PROVED]**

iii. Indicated that you would not administer medication to Resident H on account of their being asleep when this was a clinically inappropriate decision given the nature of the medication prescribed to Resident H. **[PROVED]**

iv. Attempted to administer Omeprazole to Resident I when there was no clinical need to do so. **[NOT PROVED]**

v. Attempted to administer Fresubin to Resident J when there was no clinical need to do so. **[NOT PROVED]**

vi. Were unable to correctly calculate the amount of medication required by Resident A. **[PROVED]**

vii. Were unable to draw up the correct amount of medication required by Resident A. **[PROVED]**

viii. Attempted to administer Thiamine to Resident A twice when it was prescribed once. **[NOT PROVED]**

d) Between 13 -16 June 2020, failed to satisfactorily complete 'Safe Handling of Medicines for Care Homes, in that you:

i. Failed the 'Covert Administration' module. **[NOT PROVED]**

ii. Failed the 'Non-Prescribed Medicines and Homely Remedies' module. **[NOT PROVED]**

iii. Failed the 'Avoiding Errors' module. **[NOT PROVED]**

iv. Achieved a score of 64%, a fail. **[NOT PROVED]**

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

Decision and reasons on facts

In reaching its decisions on the facts of this case, the panel took into account all the documentary evidence together with the representations made by the NMC in the statement of case provided to the panel.

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 had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Former Registered Manager at Northwood Nursing and Residential Care Home.

- Witness 2: Former Deputy Manager at Northwood Nursing and Residential Care Home.

Background

The charges arose whilst Mrs Fatima was employed as a registered nurse at Northwood Nursing and Residential Care Home (the Home).

Following a long-term sickness absence, it is alleged that between 23 June and 20 July 2020 Mrs Fatima was unable to demonstrate good practice in respect of medicine administration.

Mrs Fatima was then placed on supervised shifts and it was identified that she would have missed medications or administered them at incorrect times if she had not been supervised closely.

After being offered support, she was asked to complete a medicine administration course which she failed.

Mrs Fatima was offered a redeployment as a carer but handed in her resignation on 20 July 2020 stating that she did not feel that she was fit to work at the moment.

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

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

Charge 1a)

"That you, a registered nurse, whilst employed by the Home between June and July 2020,
1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

On 22 June 2020:

i. having administered medication to residents, failed to sign the residents' MAR charts"

This charge is found proved.

In reaching this decision, the panel took into account the statement of Witness 1 who had conducted a meeting with Mrs Fatima on 23 June 2020 where the medication competency that was completed by her on 22 June 2020 was discussed. The panel also had sight of the minutes from this meeting and noted that Mrs Fatima apologised for failing to sign the MAR charts. It took into account the following response of Mrs Fatima found in the meeting note *'I have been struggling as I am rushing with the medications as I am also helping out doing care'.* The panel concluded that there is sufficient evidence from which it could be satisfied that Mrs Fatima is more likely than not to have failed to sign the residents' MAR charts. It therefore determined that this charge is found proved.

Charge 1a)

On 22 June 2020:
ii. Failed to administer levetiracetam to a resident.

This charge is found proved.

In reaching this decision, the panel took into account the statement of Witness 1. It also took into account the meeting notes dated 23 June 2020 where Mrs Fatima's failure to administer levetiracetam to a resident was discussed. The panel noted that Mrs Fatima expressed her apology when this was discussed with her in the meeting. It concluded that

there is sufficient evidence to establish that Mrs Fatima is more likely than not to have failed to administer levetiracetam to a resident. The panel therefore determined that this charge is found proved.

Charge 1b)

That you, a registered nurse, whilst employed by the Home between June and July 2020,
1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

On 29 June 2020:

i. Attempted to administer Tinzapine [sic] to Resident A when Levomenpromazine was prescribed.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence contained in paragraphs 19-20 of Witness 1's statement. It also considered Witness 2's evidence contained in paragraph 7-9 of her statement which states *'Nearly administered Tinzaparin as opposed to Levomeprazine.'* The panel determined that this falls short of establishing that Mrs Fatima's actions in *'Nearly'* administering Tinzaparin went far enough for the panel to be satisfied that she actually attempted to administer Tinzaparin.

The evidence may have demonstrated that she was doing preparatory acts before administering Tinzaparin but falls short of evidence sufficient for the panel to be satisfied that she actually attempted to do so. The panel therefore concluded that this charge is not found proved.

Charge 1b)

On 29 June 2020:

ii. Failed to administer two unknown medications to Resident A.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witnesses 1 and 2 along with the supervised medication summary notes dated 29 June 2020, in which it is stated *'nearly missed 2 medications being administered in the morning.'* The panel determined that *'nearly missed'* indicates that they were not missed and were administered, and hence Mrs Fatima did not *'fail'*. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is not found proved.

Charge 1b)

On 29 June 2020:

iii. Attempted to administer a sub-cutaneous injection to Resident A with an inappropriately sized needled.

This charge is found NOT proved.

In reaching this decision, the panel took into account Witness 2's statement which states *'Ms Fatima then tried to administer a sub-cutaneous injection using a green needle which was the big needle.'* The panel determined that there is insufficient detail in this description to establish that Mrs Fatima's actions in *'tried to administer'* meant that she actually attempted to administer a sub-cutaneous injection to Resident A with an inappropriately sized needled.

The panel therefore concluded that there is insufficient evidence from which it could be satisfied that Mrs Fatima attempted to administer a sub-cutaneous injection with an inappropriately sized needled. The panel therefore determined that this charge is not found proved.

Charge 1b)

On 29 June 2020:

iv. Were unable to correctly calculate the amount of medication required by Resident A.

This charge is found proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2 and contemporaneous record of the supervised medication round summary which states:

> *'I recall that she could not remember the medication calculation and on multiple time, I tried different wordings and techniques to enable her but she could not understand.'*
> *'0.1ml needed of injection, unable to calculate dosage required. Also tried to administer 0.4ml of medication.'*

There was no evidence before the panel to undermine the credibility and reliability of these witnesses' statements. The panel concluded that Witness 2's evidence is sufficient for the panel to be satisfied that Mrs Fatima is more likely than not to have been unable to correctly calculate the amount of medication required by Resident A. The panel therefore determined that this charge is found proved.

Charge 1b)

On 29 June 2020:

v. Were unable to draw up the correct amount of medication required by Resident A.

This charge is found proved.

In reaching this decision, the panel took into account the statements of both Witness 1 and Witness 2. Witness 2 states *'…even when I told her the right amount, she was unable to draw up the correct amount, even after we had discussed the correct amount which was needed...'*

The panel further noted the supervised medication round summary in which witness 2 documented: '*Asked her to draw up only 0.1ml of the levomeprazine, she was unable to do this and continuously tried to administer more than required.'*

It determined that there is sufficient evidence to conclude that on the balance of probability Mrs Fatima is more likely than not to have been unable to draw up the correct amount of medication required by Resident A. The panel therefore determined that this charge is found proved.

Charge 1b)

On 29 June 2020:

vi. Drew up medication for Resident B using an unsafe technique.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2. Witness 2 states: *'…she continued to hold the medication up and she was tilting the pot. So, when she was putting in the liquid medication in the pot, it looked like there was a lot more than what was actually in there. Therefore, she was underdoing on liquid medication.'*

The panel found that there was insufficient evidence from which it could be satisfied that this technique deployed by Mrs Fatima was unsafe or gain any understanding of what occurred before or after the event described. The panel therefore determined that this charge is found not proved.

Charge 1b)

On 29 June 2020:

vii. Failed to administer Resident B's pre-podded morning medication.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witnesses 1 and 2 in which Witness 2 states *'nearly gave the liquid medications only and not the pre-podded medications'.* The panel determined that *'nearly gave'* indicates that it was not missed but was given, and hence Mrs Fatima did not 'fail'. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1b)

On 29 June 2020:

viii. Failed to administer Resident B's pre-podded afternoon medication.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2. The panel noted that there is insufficient detail in support of this charge. It further noted that Witness 2 stated in her statement that *'nearly missed podded medications'.* The panel determined that *'nearly missed'* indicates that it was not missed but was administered, and hence Mrs Fatima did not 'fail'. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1b)

On 29 June 2020:

ix. Drew up medication for Resident C using an unsafe technique.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2. Witness 2 states: *'this was similar to Resident B, Ms Fatima held the medication pot wrong and therefore nearly under dosed Resident C.'*
The panel found that there was insufficient evidence from which it could be satisfied that this technique deployed by Mrs Fatima was unsafe or gain any understanding of what

occurred before or after the event described. The panel therefore determined that this charge is found not proved.

Charge 1b)

On 29 June 2020:

x. Attempted to administer another resident's paracetamol to Resident D.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witnesses 1 and 2 in which Witness 2 states *'Nearly administered paracetamol from [another resident] medications instead of [resident d].'* The panel determined that this falls short of establishing that Mrs Fatima's actions in *'Nearly'* administering paracetamol to Resident D went far enough for the panel to be satisfied that she had actually attempted to administer the paracetamol in question.

The panel determined that there was insufficient evidence to support the charge as there is no full description of what Mrs Fatima attempted to actually do. The panel therefore determined that this charge is found not proved.

Charge 1b)

On 29 June 2020:

xi. Failed to administer Resident E's pre-podded medication.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witnesses 1 and 2 in which Witness 2 states *'nearly missed podded medications'.* The panel determined that *'nearly missed'* indicates that it was not missed but was administered, and hence Mrs Fatima did not 'fail'. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1b)

On 29 June 2020:

xii. Failed to administer Resident E's eye drops.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witnesses 1 and 2 in which Witness 2 states *'nearly missed the podded medication and eye drops'.* The panel determined that *'nearly missed'* indicates that it was not missed but was administered, and hence Mrs Fatima did not 'fail'. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1b)

On 29 June 2020:

xiii. Failed to administer Resident F's Metformin.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2. The panel noted that there is insufficient detail in support of this charge. It further noted that Witness 2 stated in her statement that *"Ms Fatima nearly failed to administer Metformin'.* The panel determined that *'nearly missed'* indicates that it was not missed but was administered, and hence Mrs Fatima did not *'fail'.* The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1b)

On 29 June 2020:

xiv. Attempted to administer eye drops to Resident F when eye drops were no longer prescribed.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence contained in paragraph 29 of Witness 2's statement which states *'tried to give him eye drops which have been discontinued'* falls short of establishing that Mrs Fatima's actions in *'trying'* to administer the eye drops went far enough for the panel to be satisfied that she actually attempted to administer the eye drops. The panel considered that the evidence available does not provide a full account of what Mrs Fatima actually did in order for the witness to conclude she was trying to administer the eye drops.

The evidence may have demonstrated that she was doing preparatory acts before administering the eye drops to Resident F but does not go far enough for the panel to be satisfied that she actually attempted to administer them. It therefore concluded that this charge is found not proved.

Charge 1c)

"That you, a registered nurse, whilst employed by the Home between June and July 2020, 1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

On 1 July 2020:

i. Failed to administer Fexofenadine, Finasteride and Ferrous Sulphate to Resident G.

This charge is found NOT proved.

In reaching this decision, the panel took into account the statements of Witness 1 and Witness 2. The panel noted that there is insufficient detail in support of this charge. It further noted that Witness 2 stated in her statement that *'Ms Fatima nearly failed to administer Fexofenadine, Finasteride and Ferrous Sulphate.'* The panel determined that

'nearly failed to administer' indicates that it was not missed but was administered, and hence Mrs Fatima did not *'fail'*. The panel's reading of this charge is that the evidence provided contradicts the wording of the charge. It therefore concluded that this charge is found not proved.

Charge 1c)

On 1 July 2020:

ii. Inaccurately signed Resident G's MAR chart to indicate that you had administered the resident's lunchtime medication when you had administered the resident's morning medication.

This charge is found proved.

In reaching this decision, the panel took into account Witness 2's evidence which states that: *'Ms Fatima signed for the lunchtime medications instead of the morning meds, even though the medications were different for the morning and lunchtime.'* It also considered the supervised medication round summary dated 1 July 2020. The panel found that there was no evidence before it to undermine the credibility and reliability of this witness. It therefore determined that this charge is found proved.

Charge 1c)

On 1 July 2020:

iii. Indicated that you would not administer medication to Resident H on account of their being asleep when this was a clinically inappropriate decision given the nature of the medication prescribed to Resident H.

This charge is found proved.

The panel considered that this charge is formed of two parts: firstly Mrs Fatima indicated that she would not administer medications because the resident was asleep and secondly this was clinically inappropriate.

In reaching this decision, the panel took into account Witness 2's evidence which states: *'Resident H was sleeping during the medication round and because of this, Ms Fatima stated that she was not going to administer the medications. However, it was important that Resident H received the medications due to their condition.' 'It was wrong that Ms Fatima did not want to administer the medications because Resident H was an epileptic who was known to have seizures.'*

Given that there is no evidence to undermine the credibility or reliability of the witnesses, the panel was satisfied that Mrs Fatima decided not to administer medications because the resident was asleep and that this was a clinically inappropriate judgement. The panel therefore determined that this charge is found proved.

Charge 1c)

On 1 July 2020:

iv. Attempted to administer Omeprazole to Resident I when there was no clinical need to do so.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence contained in Witness 2's statement which states *'Ms Fatima nearly administered Omeprazole to Resident I, even though it had already been administered by the night nurse staff due to it being an early morning medication given before food.'* falls short of establishing that Mrs Fatima's actions in *'nearly'* administering the Omeprazole went far enough for the panel to be satisfied that she actually attempted to administer it. The panel considered that the evidence available does not provide a full account of what Mrs Fatima actually did in order for the witness to conclude she was trying to administer the Omeprazole.

The evidence may have demonstrated that she was doing preparatory acts before administering the Omeprazole to Resident I but does not go far enough for the panel to be satisfied that she actually attempted to administer it. It therefore concluded that this charge is found not proved.

Charge 1c)

On 1 July 2020:

v. Attempted to administer Fresubin to Resident J when there was no clinical need to do so.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence contained in Witness 2's statement which states *'Ms Fatima nearly administered Fresubin, which had already been administered by the night shift nurse.'* falls short of establishing that Mrs Fatima's actions in *'nearly'* administering the Fresubin went far enough for the panel to be satisfied that she actually attempted to administer it. The panel considered that the evidence available does not provide a full account of what Mrs Fatima actually did in order for the witness to conclude she was trying to administer the Fresubin.

The evidence may have demonstrated that she was doing preparatory acts before administering the Fresubin to Resident J but does not go far enough for the panel to be satisfied that she actually attempted to administer it. It therefore concluded that this charge is found not proved.

Charge 1c)

On 1 July 2020:

vi. Were unable to correctly calculate the amount of medication required by Resident A.

This charge is found proved.

In reaching this decision, the panel took into account the supervised medication round summary in which Witness 2 documents *'could not calculate te [sic] required about [sic] of levomepriazine [sic] which was required.'*

There was no evidence before the panel to undermine the credibility and reliability of the contemporaneous documentary evidence. The panel concluded that Witness 2's evidence is sufficient for the panel to be satisfied that Mrs Fatima is more likely than not to have been unable to correctly calculate the amount of medication required by Resident A. The panel therefore determined that this charge is found proved.

Charge 1c)

On 1 July 2020:

vii. Were unable to draw up the correct amount of medication required by Resident A.

This charge is found proved.

In reaching this decision, the panel took into account the statements of both Witness 1 and Witness 2. Witness 2 states *'…Ms Fatima had difficulties calculating and drawing up the amount of Levomepromazine Resident A should have received. I even informed her of the correct medication, she still could not draw up the correct amount. She kept going under the required amount, which was a significant difference for medication.'*

The panel further noted the supervised medication round summary in which witness 2 documented: '*could not draw up the correct amount of levomeprazine [sic] which was required.'*

It determined that there is sufficient evidence to conclude that on the balance of probability Mrs Fatima is more likely than not to have been unable to draw up the correct amount of medication required by Resident A. The panel therefore determined that this charge is found proved.

Charge 1c)

On 1 July 2020:

viii. Attempted to administer Thiamine to Resident A twice when it was prescribed once.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence contained in Witness 2's statement which states *'Ms Fatima nearly administered thiamine twice in the same round..'* falls short of establishing that Mrs Fatima's actions in *'nearly'* administering the Thiamine went far enough for the panel to be satisfied that she actually attempted to administer it. The panel considered that the evidence available does not provide a full account of what Mrs Fatima actually did in order for the witness to conclude she was trying to administer the Thiamine.

The evidence may have demonstrated that she was doing preparatory acts before administering the Thiamine to Resident A but does not go far enough for the panel to be satisfied that she actually attempted to administer it. It therefore concluded that this charge is found not proved.

Charge 1d)

That you, a registered nurse, whilst employed by the Home between June and July 2020:

1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

Between 13 -16 June 2020, failed to satisfactorily complete 'Safe Handling of Medicines for Care Homes, in that you:

i. failed the 'Covert Administration' module.
ii. failed the 'Non-Prescribed Medicines and Homely Remedies' module.
iii. Failed the 'Avoiding Errors' module.
iv. Achieved a score of 64%, a fail.

These charges are found NOT proved.

The panel noted that the dates, *'between 13 - 16 June 2020'* are a material part of the charges that have to be proved.

The panel could find no evidence to establish as to when Mrs Fatima took the courses for which certificates have been provided. It could not be satisfied that any of these charges have been proved. Therefore the panel found charge d) in its entirety 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 Mrs Fatima'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 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, Mrs Fatima's fitness to practise is currently impaired as a result of that lack of competence.

Representations 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.'*

The NMC, in their statement of case, invited the panel to take the view that the facts found proved amount to a lack of competence. The panel had regard to the terms of 'The Code:

Professional standards of practice and behaviour for nurses and midwives (2015' ("the Code") in making its decision.

The NMC invited the panel to find that the facts found proved show that Mrs Fatima's competence at the time was below the standard expected of a registered nurse.

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Mrs Fatima's fitness to practise impaired on the grounds that:

> *'We consider the following questions from the case of Grant can be answered in the affirmative both in respect of past conduct and future risk:*
>
> > *1. Has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
> > *2. Has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
> > *3. Has [the Registrant] in the past committed a breach of one of the Fundamental tenets of the [nursing] profession and/or is liable to do so in the future*
>
> *We consider the registrant has displayed no insight.*
>
> *We take this view because whilst the issues in this case were admitted locally there has been no response to the regulatory concern or charges and no evidence that the registrant has sought to strengthen her practice since the issues arose.*
>
> *We understand the registrant has not worked since the issues arose. The last contact from the registrant was on 16 September 2020 when it was said:*
> *I am currently unemployed and I am not looking for work. I am focused on working on my health and well-being and resting at home at the moment.*

I don't plan on seeking further work at the moment as it all depends on my health and well-being.

We consider there is a continuing risk to the public due to the registrant having not taken any action to address her lack of competency.

We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards. The registrant's conduct engages the public interest. It is accepted this is wholly parasitical on the pubic protection issues.'

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on lack of competence

When determining whether the facts found proved amount to a lack of competence, the panel had regard to the terms of the Code. In particular, the following standards:

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay.
6.2 maintain the knowledge and skills you need for safe and effective practice.
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.
10.3 complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.
16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can.

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.
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.
20.1 keep to and uphold the standards and values set out in the Code.
24.2 use all complaints as a form of feedback and an opportunity for reflection and learning to improve practice.

The panel appreciated that breaches of the Code do not automatically amount to a finding of lack of competence.

The panel was of the view that the medication errors and failure to complete the MAR charts demonstrate an inability to carry out basic and fundamental nursing skills.

The panel bore in mind, when reaching its decision, that Mrs Fatima should be judged by the standards of the reasonable average registered nurse and not by any higher or more demanding standard.

The panel considered that the facts found proved were individually serious and presented a significant risk of serious harm to patients. It found that they were sufficiently serious both individually and in totality to amount to a lack of competence.

Taking into account the reasons given by the panel for the findings of the facts, the panel has concluded that Mrs Fatima's practice was below the standard that one would expect of the average registered nurse acting in Mrs Fatima's role.

In all the circumstances, the panel determined that Mrs Fatima's 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, Mrs Fatima'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*

The panel found that patients were put at risk of avoidable harm as a result of Mrs Fatima's lack of competence. It found that Mrs Fatima's lack of competence resulted in the breach of the fundamental tenets of the nursing profession. Based on the pattern of incidents and in the absence of any evidence to demonstrate that Mrs Fatima had addressed these concerns, there is a real risk of repetition and risk of significant harm to the patients should she be permitted to practise unrestricted.

In its consideration of whether Mrs Fatima has taken steps to strengthen her practice, the panel noted that she continued to make errors despite having supervision and when offered further support she did not take it. The panel has no evidence before it which demonstrates Mrs Fatima had taken any steps to strengthen her practice or address the concerns identified.

The panel noted that there is no evidence before it that Mrs Fatima has kept up to date with the knowledge and skills required of a nurse since she resigned from the Home.

The panel is of the view that there is a risk of repetition based on the past repeated incident as there were a pattern of errors and the incidents were not isolated. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that, in this case, a finding of impairment on public interest grounds was required. It concluded that the public would not have confidence in the nursing profession if Mrs Fatima were able to practice as a nurse without restrictions, considering there is no evidence of any steps taken to strengthen her practice and there is no engagement by her with the NMC. It determined that members of the public who are acquainted with this information would be concerned if Mrs Fatima were permitted to practise unrestricted.

Having regard to all of the above, the panel was satisfied that Mrs Fatima'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 12 months. The effect of this order is that the NMC register will show that Mrs Fatima's registration has been suspended.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 10 February 2022, the NMC had advised Mrs Fatima that it would be up to the panel to impose any sanction it determines suitable should her fitness to practise be found impaired.

The NMC made the following written representation on sanction:

> *'We consider a suspension order for a period of 12 months is the proportionate sanction in the circumstances of this case.*
>
> *In the light of the public protection issues in this case we consider taking no further action or imposing a caution order would be insufficient to protect the public.*
>
> *We carefully considered whether a conditions of practice order might be appropriate. We consider that had the registrant engaged with the case this may have been an appropriate sanction. However, in the light of the registrant's lack of engagement since September 2020, we do not consider it can be said there is a potential and willingness to respond positively to retraining.*
>
> *In the light of this we consider a suspension order is appropriate. A period of 12 months will allow time for the registrant to consider whether she wishes to return to nursing and, if so, to begin strengthening her practice in respect of the issues of concern in this case.*

We note that a striking off order cannot be imposed in respect of the issues in this case at this time.'

Decision and reasons on sanction

Having found Mrs Fatima'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 Sanction Guidance (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:

- Mrs Fatima has not demonstrated insight into her failings
- A pattern of incidents over a period of time
- There has been no engagement with the NMC by Mrs Fatima for over two years
- Concerns are numerous which put patients at risk of suffering harm.

The panel also took into account the following mitigating features:

- Mrs Fatima had just returned from a long-term sick leave at the time of the incidents
- Apologised at the local level for the failings

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and in the absence of any evidence to demonstrate that she has taken steps to strengthen her practice and address the concerns. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the charges found proved, and the public protection issues identified, an order that does not restrict Mrs Fatima'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 Mrs Fatima's lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Fatima'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 is of the view that there may be practical or workable conditions that could be formulated to address the concerns, given the nature of the charges found proved. However, Mrs Fatima has not engaged with the NMC and there is no evidence to suggest that she will comply with conditions of practice. The panel therefore determined that placing of conditions on Mrs Fatima's registration would not protect the public and address the wider public interest.

The panel then went on to consider whether a suspension order would be an appropriate and proportionate sanction. It considered that a suspension order would adequately protect the public and satisfy the public interest in this case. The panel noted that a striking-off order is not an available sanction to the panel at this stage.

The panel noted the hardship such an order will inevitably cause Mrs Fatima. However, this is outweighed by the need for public protection and 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 competence required of a registered nurse.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the lack of competence.

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:

- Mrs Fatima's engagement with the NMC.
- Evidence of work in the care sector.
- Testimonials from a line manager or supervisor that detail her current work practices.
- Any evidence of courses or training undertaken to improve her nursing knowledge and skills.
- A reflective piece demonstrating her insight into the concerns raised.
- Statement detailing her future intention about practising as a registered nurse.

This decision will be confirmed to Mrs Fatima 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 is in Mrs Fatima' own interest until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the written representations made by the NMC that:

> *'If a finding is made that the registrant's fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed we consider an interim order in the same terms as the substantive order should be imposed on the basis*

that it is necessary for the protection of the public and otherwise in the public interest.'

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 appeal period should Mrs Fatima decide the appeal the decision of the panel.

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

That concludes this determination.