

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

**Substantive Order Review Hearing
Friday 25 November 2022**

Virtual Hearing

Name of Registrant: Bisrat Wubalem

NMC PIN 9811360S

Part(s) of the register: Registered Nurse – Sub Part 1
Children’s Nursing – (November 2002)

Relevant Location: Glasgow

Type of case: Misconduct

Panel members: Birju Kotecha (Chair, Lay member)
Carol Porteous (Registrant member)
Richard Youds (Lay member)

Legal Assessor: Andrew Reid

Hearings Coordinator: Charis Benefo

Nursing and Midwifery Council: Represented by Zainab Mohamed, Case
Presenter

Mrs Wubalem: Present and represented by Lauren Doherty,
Anderson Strathern

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (24 months) to
come into effect at the end of 4 January 2023
in accordance with Article 30 (1)**

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Ms Doherty, on your behalf, made a request that parts of this case be held in private on the basis that proper exploration of your case involves reference to your health and personal circumstances. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Mohamed, on behalf of the Nursing and Midwifery Council (NMC), indicated that she did not oppose the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to hold in private the parts of this hearing that involve reference to your health and personal circumstances as and when such issues are raised in order to protect your privacy.

Decision and reasons on review of the substantive order

The panel decided to impose a further conditions of practice order for the period of 24 months.

This order will come into effect at the end of 4 January 2023 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh review of a substantive order originally imposed as a suspension order for a period of six months by a panel of the Conduct and Competence Committee on 1 June 2016. On 6 December 2016 a conditions of practice order was imposed for a period of 12 months. On 27 November 2017 a panel of the Fitness to Practise Committee extended the conditions of practice order for 24 months. On 28 November 2019 a conditions of practice order was imposed for a period of 12 months. At an early review on

13 February 2020 these conditions were varied, with immediate effect, for the remainder of the period of the order. At the fifth review on 26 November 2020 a conditions of practice order was imposed for 12 months. On 30 November 2021 a conditions of practice order was imposed for a period of 12 months.

The current order is due to expire at the end of 4 January 2023.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved, some by way of admission, which resulted in the imposition of the substantive order were as follows:

'That you, in 2014, whilst employed by NHS Greater Glasgow Clyde on Ward 4A as a Band 5 Staff Nurse:

1. *On 7 May 2014, at approximately 18.40, and in relation to Patient A:*

1.1. *Administered a saline flush to Patient A when:*

1.1.1. *You had not been assessed as competent to administer intravenous medication to Patient A and/or access his central line;*

1.1.2. *You were undergoing a formal capability programme...;*

1.1.3. *You had been instructed by your mentor Senior Staff Nurse Colleague 1 to fetch her if the patient's syringe driver alarm sounded in order that she could complete the administration of Patient A's intravenous medication;*

1.2. *Failed to practise in a sterile environment when you administered a saline flush to Patient A;*

1.3. *Failed to check a saline flush with another member of staff prior to administration;*

2. *On 15 May 2014, at approximately 08.20, and in relation to Patient B;*
 - 2.1. *Failed to escalate Patient B's febrile seizure to a senior member of staff:*
 - 2.1.1. *After the seizure had gone on for 3 minutes;*
 - 2.1.2. *...;*
 - 2.1.3. *...;*
 - 2.2. *Failed to monitor and/or record Patient B's oxygen saturation levels during a febrile seizure:*
 - 2.2.1. *Prior to the attendance of Senior Staff Nurse Colleague 1;*
 - 2.2.2. *...;*
 - 2.3. *Failed to recognise that the oxygen mask applied to Patient B during his febrile seizure was not connected to an oxygen point;*
 - 2.4. *Failed to ensure that Patient B received an adequate supply of oxygen during a febrile seizure'*

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

'The panel considered whether your fitness to practise remains impaired.

The panel considered that no new information had been provided since the previous review hearing. The panel considered that there was no evidence before it to demonstrate that the concerns in this case have been remediated. The panel noted that whilst you had been working as a nursing assistant, you had not worked as a registered nurse for seven years, and the current conditions have not taken

effect. As a result, you have not been able to fully remediate the concerns in this case.

The panel acknowledged your ongoing difficulties in securing a place on a RTP course, and as submitted by Ms O'Neill, the difficulties which appeared to arise from the conditions in place. However, the panel also bore in mind that the conditions were in place to address the ongoing concerns of previous panels, and that they had previously been varied in order to assist you. The panel had regard to the conditions, and it considered that they were designed to address the particular concerns in this case. It noted that today, you had not raised issues as to their general workability in terms of securing nursing employment to demonstrate evidence of remediation. The panel did not consider the conditions to be so onerous, or unworkable, as to prevent you from securing relevant nursing employment, to enable you to demonstrate evidence of remediation.

Whilst noting that the conditions had not taken effect, and your ongoing difficulties in relation to a RTP course, the panel was concerned as to the lack of any new information before it. It noted that the previous panel had given three clear points of recommendation as to what this panel may have been assisted by. However, the panel had none of those pieces of information before it. The panel noted that it did not have an up to date reference from your current employer. Whilst it acknowledged the difficulties in recently securing a reference from your manager, given that she had been on annual leave, Ms O'Neill had stated that you have been in this employment since last year. The panel therefore considered that there would have been plenty of time to obtain an up to date reference, in time for this hearing, and you would have known that the conditions of practice were due to be reviewed prior to their expiry. The panel was also disappointed that it had no evidence before it of any attempts by you to keep your knowledge up to date, and to keep abreast of current nursing practice, by way of reading or training courses. It noted that a question had been asked of Ms O'Neill in relation to this point, and she informed the panel that there had been no further steps in this regard since last year, other than you continuing to perform well in your current role (which it had no independent evidence of).

The panel also noted that the previous panel had suggested this panel may have been assisted by a reflection on your current practice, displaying insight into the areas of your practice found to be impaired. This panel had no such reflection before it. The panel noted that during her submissions Ms O'Neill relayed an example of you having escalated a patient in need of urgent care in a timely manner, and of you being commended for this by the attending doctor. The panel was disappointed that you had not provided a reflection commenting on such situations and examples in your current role, in order to demonstrate a reflection on the original failings, what you have learnt, and how your practice has, if at all, changed as a result. It considered it would have been assisted by you being able to reflect on your current role, which although is not a registered nursing role, remains in a clinical environment.

The panel therefore acknowledged the difficulties you have had in securing a place on a RTP course, and that the conditions of practice have not taken effect, to enable you to remediate and demonstrate a period of safe nursing practice. However, it was concerned as to the lack of any up to date information before it, in order to comment on your performance in your current role, any attempts to keep your knowledge up to date and your general commitment to returning to nursing practice. In light of the lack of evidence of developed insight, and of remediation of the original concerns, the panel considered that a risk of harm remains to patients if you were able to practise without restriction. The panel therefore determined that a finding of impairment remains necessary on the grounds of public protection.

The panel bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel had regard to the seriousness of the original failings, as determined by the substantive hearing panel in 2016. Given that these failings have yet to be remediated, the panel considered that confidence in the nursing profession would be undermined if you were allowed to return to unrestricted practice, particularly given the lack of any up to date evidence before the panel today. The panel therefore determined that a finding of impairment also remains necessary on public interest grounds.

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

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

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the remaining risks identified and the seriousness of the case. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.

The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the remaining risks identified. Having regard to the seriousness of your original failings, which have yet to be remediated, the panel did not consider this case to be at the lower end of the spectrum of impaired fitness to practise. A caution order would not restrict your practice, and would therefore allow you to practise without any safeguards in place. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.

The panel next considered the imposition of a further conditions of practice order. The panel bore in mind that you have been subject to conditions of practice orders since December 2016. Whilst you have not worked in a nursing role to enable you to meet those conditions, the panel considered that conditions have protected the public, and have been formulated to address the particular areas of concern in this case. The panel considered that the original failings involved areas of your clinical practice, and that it remained possible for such failings to be remediated, and therefore addressed by way of conditions of practice. The panel considered that there were workable and practicable conditions which could be formulated, in order to protect the public and satisfy the public interest.

The panel considered whether to impose a suspension order. The panel considered that there was nothing to suggest that the risks in this case had increased. It considered it remained possible to mitigate the ongoing concerns through conditions of practice. For this reason, the panel determined that imposing a suspension order would be disproportionate at this stage.

However, the panel wished to express its disappointment as to the lack of any progress and up to date evidence before it today. It acknowledged your ongoing difficulties in securing a place on an RTP course. However, the panel would have benefited from up to date references, evidence of ongoing attempts to keep your knowledge up to date and evidence of developed insight, in order to demonstrate your general commitment towards returning to nursing practice. The panel also bore in mind the length of these proceedings, which date back to 2016. Over that time period, various conditions of practice orders had been in place. On one occasion, the conditions were varied given concerns raised by you as to their workability. Taking all of this into account, whilst this panel had determined that a suspension order would be disproportionate, it wished to remind you that a future panel would have all sanctions available to it, including those more restrictive than a conditions of practice order, if it felt that to be a necessary course of action.

The panel therefore determined that a conditions of practice order is appropriate and proportionate in the circumstances of this case.

The panel had regard to the current conditions, and considered whether it was appropriate to make any variations. In doing so, it considered Ms O'Neill's invitation to remove all of the current conditions, and to impose a new conditions of practice order, with a requirement to complete a RTP course or test of competence.

The panel had regard to the NMC's guidance on return to practice courses and the test of competence which states:

“A nurse or midwife can complete a return to practice course or take a test of competence if they cannot meet the NMC's readmission or revalidation practice hours requirements.

Return to practice courses are intended to be a way of updating skills and knowledge before returning to registered practice.

...

Although return to practice courses and the test of competence may provide relevant evidence that a panel can take into account at a hearing or a review,

they are not designed to address specific concerns about a nurse or midwife's fitness to practise.

It would be generally inappropriate for a panel to rely on a return to practise course or test of competence in place of a conditions of practice order. Nor should a panel direct a nurse or midwife to complete a return to practice course or a test of competence as part of an order.”

The panel considered that RTP courses are designed to address issues arising from nurses being out of practice for some length of time, and being unable to meet revalidation requirements. They are not designed to address specific concerns arising with a nurse's fitness to practise. The panel considered that whilst there are ongoing concerns in relation to your nursing practice, which have yet to be remediated, it would be inappropriate to rely on the completion of a RTP course to address such concerns.

The panel considered Ms O'Neill's alternative invitation, to vary the existing conditions, to include a requirement to complete a RTP course or a test of competence, and to then reduce the other conditions, which she had submitted were preventing you from demonstrating evidence of remediation. The panel assessed the current conditions. The panel considered that these conditions were workable and practicable, and that they were designed to address the particular areas of concern in this case. The panel did not consider these conditions to be so onerous or unworkable as to prevent you from seeking relevant nursing employment, noting that in general, such types of conditions allow many registrants to demonstrate evidence of remediation.

The panel also bore in mind that you had previously raised concerns as to the workability of conditions, and a previous panel had varied the conditions, to make them less onerous. This included removing the requirement for direct supervision, and including a requirement for indirect supervision in its place. The panel noted the submissions made today as to the difficulty in securing a place on a RTP course, however there were no concerns raised as to the general workability of these conditions in enabling you to secure relevant nursing employment to demonstrate

evidence of remediation. In any event, the panel considered the current conditions to be the minimum necessary in order to address the concerns, maintain public protection and meet the wider public interest. In its view, to reduce the scope of the conditions any further would not be appropriate, and would leave the public at risk. The panel was satisfied that the current conditions remained appropriate, workable, practicable and proportionate to meet the ongoing concerns, to protect the public and to satisfy the wider public interest.

The panel therefore decided to extend the current conditions of practice order. It decided to do so for a period of 12 months. Taking into account your current difficulties, the panel considered that a period of 12 months would provide you with time to address those difficulties and to make progress in demonstrating evidence of remediation. If you have been able to satisfy the conditions prior to this 12 month period, you have the option of requesting an early review.

The panel determined that the following conditions are appropriate and proportionate:

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

- 1. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of a children’s nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.*

2. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a Personal Development Plan (PDP) designed to address the concerns about the following areas of your practice:*
 - a) *appropriate assessment and handover;*
 - b) *demonstration of an acceptable level of competence in relation to the full holistic assessment of children in your care, in particular, the recognition and management of a sick child with particular focus in relation to the administration of IV fluids and medication, administration of oxygen therapy, use of aseptic technique and contemporaneous record keeping.*

3. *Whilst subject to indirect supervision, you must continue to meet with your line manager, mentor or supervisor (or their nominated deputy) every two weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your PDP.*

4. *You must forward to the NMC a copy of your PDP within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*

5. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your PDP at least 14 days before any NMC review hearing or meeting.*

6. *You must tell the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*

7. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*

8.

- a) *You must within 7 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
- b) *You must within 7 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*

9. *You must immediately tell the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (8) above, to them:*

- a) *Any organisation or person employing, contracting with, or using you to undertake nursing work.*
- b) *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.*
- c) *Any prospective employer (at the time of application) where you are applying for any nursing appointment.*
- d) *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

In accordance with Article 30(1)(a) of the Order, this conditions of practice order will come into effect upon the expiry of the current conditions of practice order, namely at the end of 4 January 2022.

Prior to its expiry, this order will be reviewed by a panel. That panel may revoke the order, allow the order to lapse upon expiry, extend or vary the order or replace the order with another order.

A future reviewing panel may be assisted by the following:

- *Your attendance at the review hearing;*
- *Up to date references from your current employer;*
- *Evidence of any relevant training you have undertaken and/or of other steps to keep your skills and knowledge up to date and to keep abreast of current nursing practice; and*
- *Reflections on your current practice, with reference to situations and examples from your work in a clinical setting, displaying insight into the areas of your practice found to be impaired, what you have learnt and how your practice has changed as a result of the original failings.'*

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle and your supporting bundle. It has taken account of the submissions made by Ms Mohamed on behalf of the NMC. She provided a background to the case and referred the panel to your supporting documents which included a reflective piece, a reference from your line manager and a document detailing the personal difficulties you have experienced.

Ms Mohamed submitted that it was a matter for the panel to decide on the level of insight you had developed since the last review hearing. She submitted that similar to your position at the last review hearing, you had not had a chance to address the deficiencies identified in your practice, and so the risk of harm and risk of repetition remained high. Ms

Mohamed submitted that your fitness to practise remained impaired by reason of your misconduct on the grounds of public protection and in the public interest.

In relation to sanction, Ms Mohamed asked the panel to consider that you have experienced some difficulties in securing a place on a Return to Practice (RTP) course. She submitted that a conditions of practice order remained necessary to mitigate the risks identified. She submitted that any sanction imposed by the panel must be proportionate and appropriate.

The panel also had regard to the submissions from Ms Doherty on your behalf. She referred the panel to the documents in your supporting bundle and addressed the panel on key points in the documents for the panel's benefit.

Ms Doherty told the panel that you are currently employed as Bank Nursing Assistant at NHS Ayrshire & Arran Nursing & Midwifery Bank, having started the role in September 2020. She asked the panel to consider the detailed overview of your employment history and the daily tasks undertaken within your role. Ms Doherty submitted that you accepted that this was not a nursing role, and that you were yet to complete an RTP course or Test of Competence (ToC).

Ms Doherty told the panel that you prepared a reflective piece to demonstrate your insight based on the eight years since the charges arose. She summarised the key examples you provided as evidence of insight and developed practice, and submitted that you had also reflected on the specific concerns raised by using examples from your current role. Ms Doherty submitted that you now acknowledge certain steps you should have taken at the time of the incidents, understand the seriousness of your past mistakes, and have reflected on what you would do if faced with the same situation in the future. Ms Doherty submitted that you have attempted to demonstrate efforts towards complying with the conditions of practice order and show requisite insight and knowledge.

Ms Doherty stated that you also provided insight into your personal circumstances and the difficulties you were facing at the time that the allegations arose in 2014. [PRIVATE]. She highlighted your recognition that you put patients at risk. Ms Doherty submitted that you are now in a better position, feel supported and would be able to seek help where

required. She submitted however that your ability to show remediation was limited because of your current role as a Bank Nursing Assistant.

Ms Doherty emphasised the efforts you have made over the past eight years to address your health and [PRIVATE].

Ms Doherty said that you know you will have to complete an RTP course but that you have encountered difficulties in securing a place. She referred the panel to an email from the Senior Lecturer/Programme Leader of the Return To Practice (Nursing & Midwifery) course at Glasgow Caledonian University dated 7 October 2021. This email explained that there would be difficulties in obtaining a clinical placement for you if you were to secure a place on the course due to your conditions of practice order, and that it would require great negotiation with the Health Board.

Ms Doherty submitted that you are also giving consideration to undertaking the ToC, but that this avenue comes with significant expense. [PRIVATE]. Ms Doherty submitted that you are still eager and willing to complete this test [PRIVATE].

Ms Doherty informed the panel that there have been no reported incidents in relation to your interactions with patients and staff in your current role. She highlighted the reference from your line manager which stated that you are a competent healthcare support worker.

Ms Doherty submitted that there is a lower risk of repetition and invited the panel to consider impairment on that basis. She submitted that you are committed and determined to return to nursing practice, however you feel you are in “*a tricky situation*” because in order to satisfy the panel that your fitness to practise is no longer impaired, you need to work in a clinical setting within the NHS, and that requires negotiations with a Health Board. Ms Doherty reminded the panel that you are also competing against applicants who don't have conditions of practice in place.

Ms Doherty submitted that you are a caring individual who has dedicated your life to nursing and would like to return to nursing practice.

Ms Doherty submitted that should the panel determine that there remains impairment, then the conditions of practice order should be extended in its current form for the period of 12 months to allow you to [PRIVATE] and undertake the ToC or obtain a place on an RTP course.

Your supporting bundle comprised of the following documents:

- A Reflective Piece (including self-directed learning articles);
- Your Employment History;
- A document explaining your personal circumstances;
- An excerpt from an article titled '*How to undertake intravenous infusion calculations*' by a Senior Lecturer of Adult Nursing at Canterbury Christ Church University;
- An email from the Senior Lecturer/Programme Leader of the Return To Practice (Nursing & Midwifery) course at Glasgow Caledonian University dated 7 October 2021; and
- A reference from your Line Manager at NHS Ayrshire & Arran Nursing & Midwifery Bank dated 24 November 2022.

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

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

The panel considered whether your fitness to practise remains impaired.

The panel carefully considered the documents provided in your supporting bundle. It noted that whilst you have been working as a nursing assistant, you have not worked as a registered nurse for approximately eight years, and thus have not been able to comply with the conditions of practice order. The panel took into account that as a result, you have not been able to fully address the concerns in this case and strengthen your practice.

The panel was satisfied however that the current conditions of practice were not onerous.

The panel noted the email from the Senior Lecturer/Programme Leader of the Return To Practice (Nursing & Midwifery) course at Glasgow Caledonian University dated 7 October 2021. It acknowledged your ongoing difficulties in securing a place on an RTP course as a result of the conditions of practice order. The panel also noted [PRIVATE] and the difficulties this presented in your ability to complete the ToC. However, the panel bore in mind that the conditions were in place to address the ongoing concerns about your practice.

The panel noted the last reviewing panel's finding that you had not provided any reflection or insight into the original failings, what you had learnt, and how your practice had changed as a result. At this hearing the panel had been provided with your reflective piece and a document explaining your personal circumstances. The panel was satisfied that your reflective piece was helpful, candid and included examples of situations in your current work which linked back to the original concerns. The panel was also assisted by the contextual information about your cultural background, upbringing and views, and how that contributed to your current situation. However, the panel was concerned that you had not demonstrated an understanding of the impact of your actions on patients, colleagues and the reputation of the nursing profession. It was of the view that at times in your reflection, you appeared to justify your actions that gave rise to the concerns. The panel therefore determined that whilst you had demonstrated some insight and self-awareness, your insight was still developing.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you had not been able to practise as a nurse. The panel noted the information in your reflective piece about how you have sought to develop your nursing knowledge and skills.

You indicated that you had:

- prescribed to '*RCNI Plus and read online journals, continuous professional development articles, and practice leaning modules*';
- '*prescribed [to] Nursing Children and young people monthly journal*';

- *'worked in children wards, and Accident and Emergency department as a nursing assistant, and involved in the care of patient with Bronchiolitis, Asthma, Croup, gastroenteritis, and newly diagnosis diabetes';*
- *'read guidelines, and revised pervious action plans on those conditions, and wrote updated action plans';* and
- *'[worked] in various mental health wards, and involved in the care of Young patients with self – harm, eating disorder, depression, and anxiety... involved in mealtime support in the care of patient with eating disorder... observed half an hour while patient eating, and half an hour after mealtime.'* [sic]

The panel also noted that you had provided a 10-page excerpt from an article titled '*How to undertake intravenous infusion calculations*' by a Senior Lecturer of Adult Nursing. However, the panel had not been provided with evidence of deep reflections based on your reading. In the circumstances, the panel was satisfied that there had been some development in respect of your knowledge and training, but it was of the view that more could be done in relation to completing relevant and appropriate training, including the option of undertaking any online courses.

The panel considered the reference from your line manager which confirmed your role and dates of employment, and indicated that she could not comment on your suitability for appointment as she did not personally know you. This reference had been prepared by a colleague that had not observed your work as a Nursing Assistant. The panel was of the view that it would have been better assisted by references or testimonials from professional colleagues with direct knowledge and experience of your work as a Bank Nursing Assistant.

The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel heard Ms Doherty's submissions and received new information by way of your supporting documentation which indicated some improvement since the last review hearing. However, in light of the panel's considerations on this case, it determined that there remained a risk of repetition. The panel therefore decided that a finding of continuing impairment was necessary on the grounds of public protection.

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

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

Decision and reasons on sanction

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. It decided that taking no further action would not address the risk to patients. The panel also determined that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your 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 imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that workable, appropriate and practical conditions would address the failings highlighted in this case. The panel accepted that you have been unable to comply with conditions of practice due to your current personal circumstances but are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that a further conditions of practice order was sufficient to protect patients and the wider public interest, noting as the original panel did that there was no evidence of general incompetence, no deep seated attitudinal problems and that the misconduct related to poor judgement rather than clinical competence. In this case, conditions could be formulated to protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case in light of the new information presented and improvements you had demonstrated to this panel.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order. The panel decided to impose this order for a period of 24 months to provide you with sufficient time to address your personal difficulties, complete an RTP course or the ToC, and go on to make progress in complying with the conditions of practice.

The panel considered that in the event that you are able to comply with the conditions of practice prior to this 24-month period, you have the option of requesting an early review.

The panel decided to impose the following conditions which it considered are appropriate and proportionate in this case:

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

study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of a children's nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.
2. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a Personal Development Plan (PDP) designed to address the concerns about the following areas of your practice:
 - a) appropriate assessment and handover;
 - b) demonstration of an acceptable level of competence in relation to the full holistic assessment of children in your care, in particular, the recognition and management of a sick child with particular focus in relation to the administration of IV fluids and medication, administration of oxygen therapy, use of aseptic technique and contemporaneous record keeping.
3. Whilst subject to indirect supervision, you must continue to meet with your line manager, mentor or supervisor (or their nominated deputy) every two weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your PDP.
4. You must forward to the NMC a copy of your PDP within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.
5. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your

performance and your progress towards achieving the aims set out in your PDP at least 14 days before any NMC review hearing or meeting.

6. You must tell the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
7. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
8.
 - a) You must within 7 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.
 - b) You must within 7 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.
9. You must immediately tell the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (8) above, to them:
 - a) Any organisation or person employing, contracting with, or using you to undertake nursing work.
 - b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services.
 - c) Any prospective employer (at the time of application) where you are applying for any nursing appointment.
 - d) Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such

establishment to which you apply to take such a course (at the time of application).

The period of this order is for 24 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 4 January 2023 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Your attendance at the review hearing;
- Up to date references and testimonials from your current employer and particularly those supervising/working with you in a healthcare setting;
- Evidence of up to date training undertaken and accompanying reflections about what you have gained from the training and/or of other steps to keep your skills and knowledge up to date and to keep abreast of current nursing practice; and
- Using an appropriate reflective model such as Gibbs', provide a reflective piece on how your original failings impacted on patients, colleagues and the nursing profession. This should also include reflections on your current practice, with reference to situations and examples from your work in a clinical setting.

This will be confirmed to you in writing.

That concludes this determination.