Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 25 September 2023 – Tuesday 3 October 2023

Virtual Hearing

Name of Registrant:	**Sara Ford**
NMC PIN	17G2144E
Part(s) of the register:	Registered nurse – Sub part 1 RNA: Adult Nurse, level 1 (25 October 2018)
Relevant Location:	Somerset
Type of case:	Misconduct and Lack of competence
Panel members:	Sarah Lowe (Chair, lay member) Angela O'Brien (Registrant member) Susan Thomas (Lay member)
Legal Assessor:	Angus Macpherson
Hearings Coordinator:	Muminah Hussain
Nursing and Midwifery Council:	Represented by Adam Smith, Case Presenter
Mrs Ford:	Not present and represented by Mikhael Puar, in Counsel instructed by the Royal College of Nursing (RCN) on 25 September 2023 Present on 27 September 2023, 2 October 2023 and 3 October 2023, and not represented
Facts proved:	Charges 1d, 3a, 3b, 4a, 4d, 5a, 5b, 5c, 5d, 5e, 6a, 6b, 7 and 8b.
Facts not proved:	Charges 1a, 1b, 1c, 2a, 2b, 2c, 2d, 4b, 4c, and 8a

Fitness to practise:	Impaired
Sanction:	**Conditions of practice order (12 months)**
Interim order:	**Interim conditions of practice order (18 months)**

At the start of the hearing, Mrs Ford was not in attendance save by her counsel, Mr Puar. Mr Puar was, at that time in communication with Mrs Ford. The panel received advice from the legal assessor that representation by counsel amounted to attendance at the hearing. Accordingly at that stage the panel did not examine whether service had been affected in accordance with the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004'as amended (the Rules).

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

At the outset of the hearing, Mr Puar made a request that this case be held entirely in private on the basis that Mrs Ford's case would involve consideration of her own health and that of a close relative. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Smith indicated that he supported 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.

Having heard that there will be reference to Mrs Ford's health as well as a third-party health issue, the panel determined to hold the entirety of the hearing in private.

Details of charge

That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

1. On the following dates you failed to sign the MAR chart in respect of Patient A, once you had administered an analgesia patch:

    a. 14 May 2019;
    b. 22 May 2019;
    c. 28 May 2019;
    d. 13 June 2019.

2. On the following dates you failed to document the analgesia patch dosage administered to Patient A:

    a. 14 May 2019;
    b. 22 May 2019;
    c. 28 May 2019;
    d. 13 June 2019.

3. On 5 August 2019:

    a. Once you had administered Novomix to Patient B, you recorded the incorrect date on the patient records, namely 5 July instead of 5 August;
    b. Once you had changed a nephrostomy bag for Patient C, you recorded the incorrect date on the patient records, namely 5 September, instead of 5 August.

4. On 5 August 2019 you:

    a. Attempted to change an analgesia patch in respect of Patient D, which was not due to be changed until the following day;
    b. Did not check Patient D's progress notes prior to visiting them;
    c. Did not check the signature record on Patient D's MAR chart prior to visiting them;
    d. You failed to re-arrange the appointment for Patient D to 6 August 2019.

5. On or around 14 August 2019 you failed to complete the following on an unknown patient:

    a. Observations and/or
    b. Waterlow, and/or
    c. MUST, and/or
    d. Pressure areas check, and/or
    e. Care plan review.

6. On 14 August 2019 you failed to adhere to infection control practices, in that you:

    a. Did not wash your hands before and/or after providing patient care;
    b. Did not wash your hands after throwing away soiled measuring paper.

7. Between 29 April – 20 August 2019 you failed to carry out a clinical assessment when visiting an unknown patient, before attempting to handle the syringe driver.

8. Between 29 April – 20 August 2019 you:

    a. Failed to adequately prepare for a visit to an unknown patient at Eastleigh Care Home;
    b. Did not know the bladder wash out procedure when you attended Eastleigh Care home.

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

That you a registered nurse:

9. In or around February 2019 as part of your job application, you indicated that you were competent in male catheter care, when you were not.

10. Your actions at charge 9 above were dishonest in that you intended to others to believe that you were competent in male catheter care when you were not.

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

Decision and reasons on application to offer no evidence in relation to charges 9 and 10

Mr Smith made an application to offer no evidence in relation to charges 9 and 10. He submitted that the case examiner made an error in determining that there was a case to answer in relation to the charges, and that the evidence relied upon by the NMC does not support the charge of dishonesty.

Mr Smith submitted that the two-limb test set out in the case of *Ivy v Genting Casinos (2017) UKSC 67* should be applied:

i. What is the Registrant's genuine state of knowledge or belief regarding her act?

ii. Was the Registrant's act in light of that state of mind dishonest according to the standards of ordinary decent people?

Mr Smith submitted that Mrs Ford does not make specific representation that she was competent in male catheterisation. He submitted that therefore it cannot be said that she

knew or believed that she was making a dishonest statement. In consequence, Mrs Ford's actions cannot be held to be dishonest by the standard of ordinary decent people.

Mr Smith therefore submitted that there is insufficient evidence to support the charges.

Mr Puar offered no submissions.

The panel accepted the advice of the legal assessor and had regard to Rule 28.

The panel was of the view that it was in the interest of justice to permit the NMC to offer no evidence in respect of charges 9 and 10. It accepted the submission that the words used in the application form by Mrs Ford did not amount to a representation that she was competent in male catheter care. The panel was satisfied that there would be no prejudice to Mrs Ford and no injustice would be caused to either party by the proposed application being allowed. It was therefore appropriate to allow the application.

Decision and reasons on service of Notice of Hearing

Some short time later, Mr Puar informed the panel that he was withdrawing from the hearing as he was no longer instructed by the Royal College of Nursing. Mrs Ford did not herself attend in person at that stage. Accordingly, the panel was obliged to consider proceeding in the absence of Mrs Ford at that stage. That exercise required the panel to consider Rule 21(2) of the Rules which provides:

> *Where the registrant fails to attend and is not represented at the hearing, the Committee:*
>
> > *(a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;*

(b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
(c) may adjourn the hearing and issue directions.

The panel determined that the notice of hearing letter had been sent to Mrs Ford's registered email address by secure email on 22 August 2023.

Further, the panel noted that the notice of hearing was also sent to Mrs Ford's representative at the Royal College of Nursing (RCN) on 22 August 2023.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the notice of hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Ford's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Mrs Ford

The panel next considered whether it should continue in the absence of Mrs Ford. It had regard to Rule 21 and heard the submissions of Mr Smith who invited the panel to continue in the absence of Mrs Ford.

Mr Smith submitted to the panel that Mrs Ford had liaised with the NMC prior to the hearing date, and she had sent an email to confirm her attendance on 25 August 2023. By her counsel she had allowed the panel to consider her response to the charges as set out in the case management form and she had also submitted a bundle of documents which included a statement of her position in respect of context and her reflections. Mr Smith submitted that, on the ground of public interest, there is a need for an expeditious disposal on this case as the charges have been ongoing since 2019. He submitted that there are witnesses who have confirmed their attendance and it is fair, appropriate and proportionate to continue with the hearing.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Ford. In reaching this decision, the panel has considered the submissions of Mr Smith, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Ford;
- Mrs Ford has informed the NMC that she has received the notice of hearing and has voluntarily absented herself;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- One witness is only available to attend today to give live evidence, others are due to attend in the following days;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019;

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Ford in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the panel has received her own documentation which it can take into account. In any event, the limited disadvantage is the consequence of Mrs Ford's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Background

On 27 September 2019, the NMC received a referral from Somerset Partnership NHS Trust (the Trust) in relation to concerns relating to Mrs Ford's fitness to practice.

The NMC identified and referred the following relevant regulatory concerns to the case examiners:

1) *Poor record keeping – in that you:*
    a) *administered analgesia patches to Patient A in May 2019 and June 2019 but failed to sign the MAR chart to reflect this*

b) *administered insulin to Patient B on 12 August 2019 but recorded that you had done this on a different day*
c) *changed the nephrostomy bag of Patient C on 12 August 2019 but recorded that you had done this on a different day.*

2) *Poor medication administration – in that you attempted to administer an analgesia patch to Patient A contrary to the prescription.*

3) *Failed to adhere to infection control practice's – in that you did not wash your hands before and/or after providing patient care.*

The case examiners referred all regulatory concerns to the fitness to practise committee.

Decision and reasons on facts

At the outset of the hearing, the panel had regard to the exhibit bundle, the witness statement bundle, the impairment bundle and the registrant's response bundle. The panel also had regard to the case management form that was filled out by Mrs Ford, which makes admissions to charges 1d, 3, 4a, and 5.

The panel considered each of the charges individually to determine whether it finds those charges proved.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Smith on behalf of the NMC. It also considered Mrs Ford's responses to the charges set out in the case management form and the representations which she made in her documentary evidence. Further, it took into account oral representations which she made when joined the hearing on the third day, which is after such time as the NMC witnesses had been called, Mr Smith had delivered his final submissions and the panel had received legal advice on facts from the legal assessor. Mrs Ford did not make those oral submissions

under oath or affirmation. Accordingly, the panel determined to attach what weight it considered appropriate to them.

The panel had drawn no adverse inference from the non-attendance of Mrs Ford during the period of her non-attendance.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Clinical Supervisor at the Trust, previously the District Nurse Team Leader
- Witness 2: District Nurse Team Leader at the Trust
- Witness 3: Staff Nurse at the Trust
- Witness 4: Band 5 Community Nurse at the Trust

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

Mrs Ford joined the hearing on 27 September 2023, to provide a background to the charges against her.

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

Charge 1(a), 1(b), and 1(c)

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

1. *On the following dates you failed to sign the MAR chart in respect of Patient A, once you had administered an analgesia patch:*

   a. *14 May 2019;*
   b. *22 May 2019;*
   c. *28 May 2019."*

These charges are found NOT proved.

In reaching this decision, the panel decided to consider charges 1(a), 1(b) and 1(c) together. It took into account that the principal witness in respect of these charges was Witness 2. Although Witness 2 asserted that she had seen the relevant MAR chart for Patient A in respect of these occasions when Mrs Ford visited her, and that was how she came to state that she had not signed it, she could not explain how or when she could have done so. The relevant MAR chart was not in evidence. According to Witness 2 it was lost. In her reflective piece, Mrs Ford doubted whether she had not signed the MAR chart on these occasions, further she recorded on the electronic record system held at base, RIO, on 28 May 2019 that she:

'Took Mars chart to Harley surgery to update as the prescription for the patch had been increased'.

In the light of the fact that the MAR chart was not found, there is no reason to doubt Mrs Ford's contemporary record. If the original MAR chart was not with Patient A when Witness 2 attended Patient A on 20 June 2019, Witness 2 could not have seen whether Mrs Ford had signed it.

In the circumstances, the panel found paragraphs 1(a), (b) and (c) not proved.

Charge 1d

> *"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.*
>
> *1. On the following dates you failed to sign the MAR chart in respect of Patient A, once you had administered an analgesia patch:*
>
> *d. 13 June 2019."*

This charge is found proved.

In reaching this decision, the panel noted the MAR chart in the exhibit bundle. This spanned the period 30 May 2019 to 20 June 2019. The relevant medication was an analgesic patch which was to be applied once a week. There were no entries for the dates 6 June and 13 June 2019, which dates represent the occasions when a new patch should have been applied. The panel noted from the RIO record provided, that Mrs Ford attended Patient A on 13 June 2019. It was therefore able to confirm Witness 2's evidence that Mrs Ford did not sign the MAR chart on that day.

The panel also had regard to the case management form which was submitted to the NMC on behalf of Mrs Ford. In this form, Mrs Ford ticked 'yes', admitting that she had failed to sign the MAR chart in respect of Patient A on 13 June 2019.

Charge 2 (in its entirety)

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

2. On the following dates you failed to document the analgesia patch dosage administered to Patient A:

a. 14 May 2019;
b. 22 May 2019;
c. 28 May 2019;
d. 13 June 2019."

These charges are found NOT proved (in their entirety)

In reaching this decision, the panel took into account that there was no evidence submitted by the NMC to support the proposition that Mrs Ford was under an obligation to document the analgesia patch dosage. There was no opportunity on the MAR chart to confirm the dosage, other than by reference to the fact that the prescribed patch was applied. Moreover, whilst it would have been possible for her to 'document' the dosage on RIO, the panel noted that this had not in fact been done by Witness 2 after she applied the patch on 20 June 2019. The panel determined that the General Practitioner was responsible for what is prescribed and how much is prescribed. It determined that there is no requirement for Mrs Ford to document the dosage.

Charge 3 (in its entirety)

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

3. On 5 August 2019:

a. Once you had administered Novomix to Patient B, you recorded the incorrect date on the patient records, namely 5 July instead of 5 August;
b. Once you had changed a nephrostomy bag for Patient C, you recorded the incorrect date on the patient records, namely 5 September, instead of 5 August."

This charge is found proved (in its entirety)

In reaching this decision, the panel took into account the Datix report, multidisciplinary evaluation records, Witness 2's statement, and the case management form.

Witness 2's statement reads:

"The registrant visited two patients … to administer their insulin to them. She recorded the wrong dates in each of their patient records.

No harm came to these patients because the error was discovered the next day by another visiting registered nurse. As one of the patients has dementia, she would not remember if her insulin had been administered or not. As such, we rely heavily on the records being accurate …"

The panel determined that both the Datix report and the multidisciplinary evaluation records support the witness's statement. The evaluation records clearly show that, following her visit on 5 August 2019, when she signed Patient B's record and Patient C's record, she entered incorrect dates as follows: for Patient B: 5 July 2019; for Patient C: 5 September 2019.

Mrs Ford also ticked ‘yes’ to agreeing to charge 3 on her case management form.

Charge 4a

> *“That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.*
>
> *4. On 5 August 2019 you:*
>
> *a. Attempted to change an analgesia patch in respect of Patient D, which was not due to be changed until the following day.”*

This charge is found proved

In reaching this decision, the panel took into account the statement made by Witness 2, as well as the case management form.

Witness 2’s statement reads:

> *“The progress notes would have clearly indicated to the registrant when the next administration was due … she said it was a genuine mistake but calculated it to be seven days and thought the patient required the patch.”*

Mrs Ford also ticked ‘yes’ to agreeing to charge 4(a) on her case management form.

Charge 4b and 4c

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

4. On 5 August 2019 you:

b. Did not check Patient D's progress notes prior to visiting them;
c. Did not check the signature record on Patient D's MAR chart prior to visiting them."

These charges are found NOT proved

In reaching this decision, the panel took into account the oral witness evidence given by Witness 2 on 26 September 2023.

Witness 2's statement reads:

"The registrant had not checked the progress notes prior to the visit … The registrant also failed to check the patients MAR chart. There are concerns with the registrant not checking these documents prior to administering medication …"

Despite the above, when questioned, the witness made it clear that the notes that Mrs Ford should have checked prior to her visit were in a green folder which was kept in the patient's house, not on RIO which was accessed by Mrs Ford at the Trust base. Further the MAR chart was kept at Patient D's home. In consequence, these were not notes which Mrs Ford could have checked prior to visiting Patient D.

Charge 4d

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

4. On 5 August 2019 you:

d. You failed to re-arrange the appointment for Patient D to 6 August 2019."

This charge is found proved

In reaching this decision, the panel took into account the email sent by Witness 2 to Mrs Ford on 7 August 2019.

The email states:

"You did not forward plan the Buprenorphine patch for today. You also did not adjust future visits to be on each Tuesday instead of Monday as per discussion. You said a team member had helped you to add a visit on for today but I explained it definitely wasn't on the planner. Witness 1 and I explained the importance of not only adding a one-off visit but ensuring they are set as recurring and all visits not required are removed."

The panel determined that this supports charge 4(d).

Charge 5 (in its entirety)

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

5. On or around 14 August 2019 you failed to complete the following on an unknown patient:

a. Observations and/or
b. Waterlow, and/or
c. MUST, and/or
d. Pressure areas check, and/or
e. Care plan review."

This charge is found proved

In reaching this decision, the panel took into account the email from Witness 1 to Witness 2 dated 15 August 2019, the oral evidence given by Witness 1 and the case management form.

Witness 1 in her email stated:

> *"We visited a patient who was allocated for MUST, waterlow, pressure area check, care plan review and observations She weighed the patient but did nothing else. Once back in the car she stated 'oh! I forgot to do the waterlow and obs. But I haven't even got my equipment with me.' She had left her equipment in her car (we were in my car for the visits). She knew what the patient had needed prior to leaving the office as she had written it down in her diary, so should have got her equipment to take with her."*

The panel also determined that the oral evidence given by witness 1 was specific and accurately supports the email above.

Mrs Ford also ticked 'yes' to agreeing to charge 5 on her case management form in its entirety.

Charge 6 (in its entirety)

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

6. On 14 August 2019 you failed to adhere to infection control practices, in that you:

a. Did not wash your hands before and/or after providing patient care;
b. Did not wash your hands after throwing away soiled measuring paper."

This charge is found proved

In reaching this decision, the panel took into account the email from Witness 1 to Witness 2 dated 14 August 2019, and the email to Mrs Ford from Witness 2 dated 15 August 2019.

The email from Witness 1 dated 14 August 2019 states:

"During a visit to a patient to redress her leg Sara did not wash her hands or use alcohol gel prior to the procedure. She also took her gloves off after creaming the patients leg and redressed the leg with no gloves on.

During another visit to redress bilateral legs Sara did not wash her hands prior to the procedure or use alcohol gel. She also used the measuring paper in the wound care pack to measure the wound for the assessment. This became soiled. She wrote the measurements on the soiled paper. After the procedure she 'wafted' the soiled paper and was about to put it in her pocket. I stated she should not do this and should write the measurements in her diary, which she did. However, she then screwed up the soiled paper, threw it away with bare hands and then did not wash her hands or use alcohol gel. Once in the care she then proceeded to eat an orange."

The email from Witness 2 on 15 August states:

> *"Witness 1 said your leg bandaging was really good but your infection control techniques were very poor. You failed to wash your hands before and after dressing changes through-out the morning, did not use alcohol gel and applied a dressing without gloves. Witness 1 was also concerned when you applied a paper measuring tape to wet wounds to measure them, then used that paper to document the wound measurements. Witness 1 said you then 'wafted' the paper and it appeared you intended to retain the paper with measurements on. You denied this and said you intended to throw the paper measurer away."*

The panel determined that the NMC regulations on infection control required her to follow infection control practices including the washing of hands in these circumstances. It also determined that this is fundamental nursing practice, and a nurse should not have to be told to ensure proper hygiene.

Charge 7

> *"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.*
>
> *7. Between 29 April – 20 August 2019 you failed to carry out a clinical assessment when visiting an unknown patient, before attempting to handle the syringe driver."*

This charge is found proved

In reaching this decision, the panel took into account the oral evidence from Witness 3.

The panel determined that there is clear oral evidence from Witness 3 that, on the relevant occasion, she was shadowing Mrs Ford, and that Mrs Ford had stepped forward to deal with the alarming syringe driver.

Witness 3's statement reads:

> *"When I arrive at a patient's home, I always assess the situation and speak to the patient or family member before I start providing nursing care or touching equipment, Sara did not do this she went straight to fiddling with the driver."*

Notwithstanding that Mrs Ford was supernumerary at the time, by virtue of the shadowing arrangement, she was able to and did take responsibility to address the situation. The panel accepted Witness 3's evidence that prior to attempting any adjustment of the syringe driver, the nurse should have carried out a clinical assessment as to the circumstances. Mrs Ford did not do that. The panel recognised that the explanation for her failing so to do was her not having received the relevant training; however, it fell to Mrs Ford to say to Witness 3 in those circumstances that she was not trained to address the situation, rather than to attempt to deal with the situation precipitately.

The panel determined that witness 3 gave clear evidence of what is expected in a clinical assessment, and this was not carried out by Mrs Ford.

Charge 8a

> *"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.*
>
> *8. Between 29 April – 20 August 2019 you:*

a. Failed to adequately prepare for a visit to an unknown patient at Eastleigh Care Home."

This charge is found NOT proved

In reaching this decision, the panel considered the charge to be wholly unspecific. It does not provide any detail as to the visit in question, when it occurred, who the patient was or the reason for the visit. The panel therefore considered the charge to be incapable of proof.

If, contrary to the panel's understanding, it refers to the matter set out in paragraph 8(b), the panel was not satisfied that Mrs Ford failed to prepare for such a visit. There was evidence that she was trained in the bladder washout procedure in a hospital, but she was not trained in such a procedure in the district. There was no evidence therefore that she knew she had to prepare for that procedure before she attended to the patient.

Charge 8b

"That you, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

8. Between 29 April – 20 August 2019 you:

b. Did not know the bladder wash out procedure when you attended Eastleigh Care home."

This charge is found proved

In reaching this decision, the panel took into account the bladder procedure. It determined that Mrs Ford, having worked in a hospital before this, may not have been familiar with the

bladder procedure that should have been used when attending a care home. The panel noted the evidence that bladder washout procedures differed depending on whether they were carried out in a hospital or in the district.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether those facts found proved amount to a lack of competence and, if so, whether Mrs Ford's fitness to practise is thereby 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 to determine whether the facts found proved amount to a lack of competence; secondly, if the panel determines that the facts found proved amount to a lack of competence, whether, in all the circumstances, Mrs Ford's fitness to practise is currently impaired by reason of that lack of competence.

Submissions on lack of competence

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.'*

Mr Smith invited the panel to take the view that the facts found proved amount to a lack of competence. He submitted that there were wide ranging errors over a period of time from when she commenced working at the Trust on 30 April 2019 to when she resigned on 20 August 2019. They involved medication administration, record keeping, failure to follow basic nursing practice such as infection control and clinical assessment. He submitted that the errors made by Mrs Smith demonstrate that she did not deliver a safe standard of care over the period in question. Recognising that she was relatively newly qualified, he submitted that Mrs Ford was given proper opportunity to address her shortcomings with shadowing, management supervision and ultimately being placed on an informal capability action plan, but this had not been successful. He recognised that she had experienced a number of personal issues, including health matters, but he stated that the management had sought to assist her with regard to these.

Mr Smith submitted that the facts found proved show that Mrs Ford's competence at the time was below the standard expected of a Band 5 registered nurse which could put patients at risk.

Submissions on impairment

Mr Smith moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), General Medical Council v. Cohen [2008] EWHC 581 (Admin.), Nicholas Pillai v. General Medical Council [2009] 1048 (Admin.) and Ogundele v. The Nursing and Midwifery Council [2013] EWHC 2748 (Admin.).

In respect of the need to protect the public, Mr Smith accepted that Mrs Ford's lack of competence was capable of remedy. At the time she had shown herself competent to become a Band 5 registered nurse. However, he submitted that she had not addressed

her deficiencies in respect of, in particular, record keeping, medication management and infection control by appropriately targeted courses. Those courses which she undertook in 2022 were directed more at safeguarding which was not an issue which had concerned the Trust. In the context of Mrs Ford having resigned from the Trust, she had not undertaken the appropriate and regular training which was necessary to bring her standards of professional performance up to an acceptable level. He referred to her current role at Newcross Care and acknowledged the complexities of the role which she undertook in her capacity as a Nursing Auxiliary, but he submitted that she needed to restore her professionalism by reference to targeted training and demonstrate that she had restored it. He also acknowledged that at the material time, she had had to endure very considerable difficulties relating to her family, a particular crisis concerning a family member, her own health, bereavement and loneliness. Nevertheless, he submitted that there remained a risk of repetition.

In respect of the wider public interest, he reminded the panel that it should consider the need to maintain confidence in the nursing profession and uphold standards of conduct and performance. He submitted that the case demonstrated failures in basic nursing care and that the public would be concerned if no finding of impairment were made in those circumstances. He stated, based on the case of Nicholas Pillai v. General Medical Council [2009] 1048 (Admin.), that the panel was able to take into account her failure to engage with the hearing, and on the basis of Ogundele v. The Nursing and Midwifery Council [2013] EWHC 2748 (Admin.) that it could take into account the volume of incidents. He reminded the panel that for much of her time at the Trust, Mrs Ford had been supernumerary and was being supervised. He stated that the Trust could not have done more to assist her.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments, including those cited by Mr Smith, Calhaem v. General Medical Council [2007] EWHC 2606 (Admin.) and R (Remedy UK Ltd) v. General Medical Council [2010] EWHC 1245.

Decision and reasons on lack of competence

Before considering the individual allegations, the panel considered first whether the matters brought before it represented a fair sample of Mrs Ford's work upon which it would be appropriate for it to make a judgment as to lack of competence. It noted that in respect of a period of employment from 30 April 2019 to 20 August 2019, some eight matters had been brought to the attention of the panel, although paragraphs one and two each concerned four separate dates. Of those eight matters, broadly six have been found proved, five of which were probably in August 2019. At the material time, Mrs Ford was experiencing a number of personal problems, in respect of which the Trust had endeavoured to assist her by allowing her time off work and recommending that she seek help from the HR department. The panel would not have considered that such a number of incidents in such a short period of time warranted the conclusion that a fair sample of her work was being considered, were it not for the fact that Mrs Ford resigned on 20 August 2019. By doing so, she removed herself from the opportunity of resolving all issues in house. In consequence, the Trust felt obliged to make a referral to the NMC. It considered in those circumstances, that it was incumbent upon it to address the issue of lack of competence notwithstanding the size of the sample.

When determining whether the facts found proved amount to a lack of competence, the panel had regard to the terms of the 2015 NMC Code, which was last updated in October 2018. In particular, it considered that Mrs Ford had not upheld the following standards:

> ***1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*
> > *1.2 make sure you deliver the fundamentals of care effectively*
> > *1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*

10 Keep clear and accurate records relevant to your practice This includes but is not limited to patient records. It includes all records that are relevant to your scope of practice.

To achieve this, you must:

10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event

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

10.4 attribute any entries you make in any paper or electronic records to yourself, making sure they are clearly written, dated and timed, and do not include unnecessary abbreviations, jargon or speculation

13 Recognise and work within the limits of your competence

To achieve this, you must:

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

13.5 complete the necessary training before carrying out a new role

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

To achieve this, you must:

19.3 keep to and promote recommended practice in relation to controlling and preventing infection

The panel bore in mind, when reaching its decision, that Mrs Ford should be judged by the standards of the reasonable average Band 5 registered nurse and not by any higher or more demanding standard. The panel looked at the charges found proved when determining whether Mrs Ford had lack of competence.

In respect of charge 1(d), the panel determined that there had been underlying issues with the MAR chart. It considered that Mrs Ford's failure to sign the MAR chart on 13 June 2019 did not present a serious risk of harm to Patient A. She had updated the RIO and green files. It noted that she was not the only person to have failed to sign the MAR chart. The panel determined that, had this been an isolated incident, it would represent a poor standard of nursing but would not amount to a lack of competence. However, as this incident was one of many found proved, the panel concluded that it should consider it alongside Mrs Ford's other mistakes and at that stage, make a decision as to whether it demonstrated lack of competence.

In respect of charges 3(a) and 3(b), the panel considered that they could be put down to human error made at a time when Mrs Ford was distracted by her own personal situation. It did not consider that they amounted to lack in competence. The panel noted that Patient B was being seen twice every day, and Patient C was being seen once every day, so that the failure to document the correct dates accurately would not have impacted on patient safety.

The panel determined that charge 4(a) and 4(d) fell below nursing standards and amounted to a lack of competence. Mrs Ford had failed to accurately plan the correct date to change Patient D's patch. When her supervisor stepped forward and stopped Mrs Ford from changing the patch, Mrs Ford should have realised that she should have rearranged the appointment for the following day. The incident demonstrated that Mrs Ford was not planning care for patients meticulously, and thereby she was exposing them to risk of harm. The panel noted however a degree of disappointment that Mrs Ford's supervisor did not anticipate and talk Mrs Ford through the planning error before she went to change the patch.

In respect of charge 5, which was admitted, Mrs Ford forgot to carry out all the relevant observations for the patient. This was a serious omission. However, again the panel noted that the supervisor could have provided more assistance to her by reminding her of her mistake, thereby enabling her to rectify it at the time rather than having to reschedule a

further visit the following day. Nevertheless, the panel determined that this amounted to a lack of competence.

In respect of charge 6, the panel determined that the washing of hands is and was at the material time, a fundamental aspect of nursing care. Mrs Ford's failure to attend to this, especially in the context of wound care, amounted to an unacceptably low standard of professional performance in a qualified registered nurse.

In respect of charge 7, the panel was concerned by Mrs Ford's lack of judgement. She ought to have acknowledged, especially in the context of her being supernumerary and supervised, that she was not competent to deal with the alarming syringe driver appropriately. Her stepping forward to attend to it demonstrated a weakness which she had, namely that she should be seen to deal with any issue; she should have known that she was not competent to do so. It was regrettable that her supervisor did not seem to have been made aware of her limitations and prevented the incident occurring. The panel again considered that more could have been done to support her in this instance.

In respect of charge 8(b), the panel determined that Mrs Ford did not lack competence. It noted that she had called someone for help, admitted that she did not know how to carry out a bladder wash out using the equipment supplied and asked for advice. The panel was also concerned that Mrs Ford was left unsupervised during this incident as evidence stated that she was supernumerary at this stage.

In the light of its other findings of lack of competence, the panel determined that the matter found proved in paragraph 1(d) of the charges should also be regarded as a further example of lack of competence.

The panel has therefore concluded that Mrs Ford's practice was below the standard that one would expect of a Band 5 registered nurse. It will be apparent that the panel was disappointed that more was not done to assist Mrs Ford when she was shadowed by supervisors, so that she could have avoided mistakes whilst at the same time learning

from her supervisors. Further, the panel noted that the supervision methods provided were not always in the best interests of the patients.

In all the circumstances, the panel determined that Mrs Ford'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 Ford'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 performance 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/their fitness to practise is impaired in the sense that S/He/They:

a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

d) *…*

The panel found that patients could have been put at risk and could have been caused physical harm as a result of Mrs Ford’s lack of competence. Mrs Ford’s lack of competence had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel noted that Mrs Ford had taken the time to write a reflective piece. It noted that Mrs Ford had been open about her personal struggles, and that she had taken steps to address these herself. The panel noted that although she had been made supernumerary, she was sometimes left to go out on her own. The panel applauded Mrs Ford for the way she carried on working after her resignation, albeit not as a registered nurse, despite the personal difficulties which she was experiencing. The panel regarded Mrs Ford as a resilient person who should be able to address her shortcomings particularly now that she is managing her personal issues.

The panel did however determine that Mrs Ford often appeared defensive. It was of the view that she could have been more understanding of the feedback which she received from her supervisors. It was disappointed that she did not attend the hearing other than to deliver a reproach to those in her Trust who were managing her. It would have been more helpful had she set out before the panel what led her to perform as found in respect of the several incidents. It would have been helpful for the panel to have heard from her in respect of both insight and remediation and as to her current plans. It was of the view that the reflective piece was more a self-focused reflection, rather than addressing what impact her actions had on others.

In its consideration of whether Mrs Ford has taken steps to strengthen her practice, the panel took into account that if she was not working as a nurse, there would only be a limited amount of training that she could complete. It did note that she had completed training courses whilst she was working for the Trust, however it was not satisfied that the courses she had undertaken were particularly relevant.

The panel is of the view that there is a risk of repetition as there is currently no evidence that Mrs Ford has strengthened her practice as a nurse in respect of those matters which the panel has found proved. The panel did note that Mrs Ford had been working as a community carer; she explains that she now notes down what needs to be done so she does not miss anything. The panel recognised her that she is asserting that she is no longer not competent as a registered nurse as her practice has changed since the time she was working for the Trust. However, the panel could not accept these assertions as they were not explored in the hearing.

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 considered that the public would regard the lack of competence found by the panel to be a serious matter even in a newly qualified nurse. Further, if the nurse in question does not attend the hearing to demonstrate that she has developed insight and strengthened her practice, the panel is placed in a position whereby it cannot reassure the public that the nurse has developed an appropriate approach to her shortcomings. That being the situation in this case, the panel determined that a finding of impairment on public interest grounds is also warranted.

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

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for 12 months, with a review. The effect of this order is that Mrs Ford's name on the NMC register will show that she is subject to a conditions of practice order and anyone who enquires about her registration will be informed of this order.

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

Submissions on sanction from the NMC

Mr Smith informed the panel that, in the Notice of Hearing dated 22 August 2023, the NMC had advised Mrs Ford that it would seek the imposition of a conditions of practice order for 30 months with a review if the panel found her fitness to practise currently impaired.

Mr Smith submitted that a caution order would be insufficient in this case, as the panel have found five incidents proved. He stated that the aggravating feature in the case was that Mrs Ford caused a risk that harm to her patients. He contended that a conditions of practice order of thirty months would be appropriate. That would enable Mrs Ford to undertake the training courses which would address her shortcomings, and to gain more experience. It would afford her sufficient time for reflection.

Mr Smith referred the panel to case law, namely:

- Brennan v Health Professional Council [2011] EWHC 41 (Admin.) for the proposition that where the purpose of the sanction is to deal with issues other than the maintenance of public safety and was instead to provide a deterrent to others to maintain confidence in the profession and standards, it is important to show the sanction is proportionate to the (misconduct) and for the individual;
- Daragmeh v. GMC [2011] EWHC 2080 (Admin.) for the proposition that the sanction should be proportionate and would protect the public; and
- Kamberova v. NMC [2016] EWHC 2955 for the proposition that the panel could take into account the time spent subject to an interim order when imposing a substantive order, but that it should consider the purpose of the sanction.

Submissions on Sanction from Mrs Ford

Mrs Ford attended the hearing in respect of sanction. She delivered a lengthy explanation of her circumstances at the time she was employed at the Trust and thereafter. Mrs Ford recognised that she had done herself an injustice in not attending the hearing at the start. She told the panel that she had read the determination and that there was a lot of it she did not agree with. She feels she has moved on since 2019.

Mrs Ford reminded the panel that she has worked continuously as a health care assistant / carer since her resignation, including during the pandemic. She had found this extremely difficult, especially working in the countryside.

Mrs Ford stated that the whole regulatory process had brought her down. She was most exercised that she might be ‘condemned’ to another 30 months of conditions of practice on top of the four years she had been subjected to an interim order. She stated that she was astonished to find herself in such a position. She believed her former managers had not been 100% truthful, while she had consistently told the truth. During this time, Mrs Ford has been caring for her four children, who have done well for themselves and gone to university, but she herself was beset with this regulatory experience. She complained that, while she was telling the truth, she felt she was being attacked. She considered the regulatory process to be disgraceful. She had sacrificed a great deal to become a nurse.

Mrs Ford stated that she had attended interviews for nursing positions but when she told them about the fitness to practise case, she lost any opportunity of being employed. She also described examples of when she felt she was discriminated against due to her age.

Mrs Ford told the panel that she had been working through an agency as a nursing assistant in a complex care environment since May 2020 with patients who had brain injuries, dementia, Parkinson’s, spinal injuries, learning disabilities and mental health problems. She had received training through the agency. She had also undertaken private work – a young man who had suffered a brain injury – in a small team. In consequence, Mrs Ford is interested in caring for mental health patients and elderly dementia patients.

Mrs Ford provided the panel with some context of her situation four years ago. She was clear that she had not received any good nursing guidance, despite the fact that she was a newly qualified nurse. She highlighted that her home life was difficult at that time, and that working in a place where she was not supported did not help.

Mrs Ford contended that a newly qualified nurse, such as she was in October 2018, was entitled to 12 months good guidance. She did not receive that. Her problems were attributable to weak management in her first job who did not take to task the members of staff who had bullied her when she raised a complaint that they were vaping. She

mentioned that that Hospital was now in special measures. She considered that she was misled by the managers of the Trust when they offered her a settled environment in the district which turned out to be anything but. She stated that there was a toxic relationship between the managers which they did not keep from her. She contended that she had gone from the frying pan into the fire. She stated that she did obtain another nursing job in London, but she stated she could not take it up right now. [PRIVATE]. She had remained resilient. She had worked 100 hours per week during the pandemic; she had never let down the home where she worked. She stated that nurses need to be more protected. She expressed her frustration with a regime whereby nothing was said to her face, and that when she resigned, they said they were sad to see her go. She did not prefer to be a Health Care Assistant.

Mrs Ford stated that the sanction should be a 12-month conditions of practice order, the period which reflected the time when she should have had good guidance.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Conduct which put patients at risk of harm;
- Lack of insight into the potential effects on patients, and;
- Intermittent attendance at the hearing.

The panel also took into account the following mitigating features:

- She made a number of admissions;
- She was newly qualified and new to community nursing;
- The level of support which she received at the Trust:
    - being allowed to fail on occasions, rather than being encouraged to learn;
    - supervisors not being aware of her level of training and competencies;
    - being permitted to work on her own when she was supernumerary;
- [PRIVATE];
- [PRIVATE];
- Subsequent training, and;
- Subsequent employment.

Mrs Ford produced a limited number of testimonials. She explained that she had requested another from one of her client / patients, but she had run out of time.

The panel took some time to reflect on Mrs Ford's submissions. It was pleased that she had engaged with the panel in relation to sanction and recognised that it had, thereby, been enabled to understand her position more fully. It was apparent that she remains angered by the way she was managed in her first two nursing positions, complaining that she was not given the start in her nursing career that she considered she was entitled to receive, and described being discriminated against due to her age. Mrs Ford maintains that her decision not to follow the informal capability action plan and to resign was occasioned by her loss of confidence in her managers. Broadly the panel accepted those submissions. It did, however, note that she avoided accepting responsibility for mistakes which she admits she made.

Further the panel noted that Mrs Ford was exasperated by the NMC for having taken so long to arrange the hearing, while all the while she was subject to interim orders. Her first interim conditions of practice order was on 18 October 2019. She was made subject to an interim suspension order on 24 September 2020. This was then replaced on 16 September 2021 with an interim conditions of practice order which is still in place. She

explained that this had compromised her opportunities to obtain employment as a nurse. Further she was astonished that the NMC sought the imposition of a conditions of practice order of 30 months, when she had been subject to an interim order of conditions for so long.

Again, the panel broadly accepted Mrs Ford's submissions in these regards. The NMC did not offer an explanation as to why the case had taken so long to get to a hearing. Further, and significantly, the NMC did not offer an explanation as to why it persisted in seeking a conditions of practice order for 30 months when that was its sanction bid – set out in the documentation served on Mrs Ford before the commencement of the hearing. Since then, it has offered no evidence in respect of the dishonesty charge and a number of charges were found not proved. Further, notwithstanding the findings, which the panel made at the second stage of the hearing, in respect of lack of competence, and impairment on public protection and public interest grounds, the mistakes the subject of the case were matters which could have been addressed by appropriate management and care of the nurse in question.

The panel considered that these considerations have prevented Mrs Ford from moving forward with regard to her professional career as a nurse, although she has undertaken training. Fortunately, they did not prevent her from addressing her health and other personal concerns, nor compromise her commitment to work and care for others, especially for the elderly and those suffering from dementia. She has demonstrated her resilience to the panel's satisfaction.

Turning to the sanctions, the panel considered that taking no action or imposing a caution order were not realistic. Mrs Ford has been out of nursing practice since August 2019; she made mistakes, even basic nursing mistakes. Neither Mr Smith nor Mrs Ford herself urged upon the panel either of these alternatives.

The panel next considered imposing a conditions of practice order. The panel took into account the relevant paragraph in the Sanctions Guidance, which refers in particular to the following:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *…*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that Mrs Ford would be willing to comply with conditions of practice. The panel concluded that a conditions of practice order was the appropriate sanction, although, for completeness's sake, it did consider a suspension order. It rejected the latter as it was of the firm view that Mrs Ford did not have any attitudinal issues, and that it was probable that she could return to safe practice after an appropriate period of conditions.

To make sure conditions of practice achieve their aim of public protection, in a way that's fair to the nurse, they should be relevant, proportionate, workable and measurable. For the conditions to be relevant, they should address the shortcomings identified by the panel. For the conditions to be workable and measurable, they should take into account the nurses ability to comply with them and the ability of those managing her to assess her performance. The conditions which the panel has determined to impose meet those objectives.

So far as the matter of proportionality is concerned, the panel has taken account of the following:

- The purpose of conditions is to protect the public;
- Mrs Ford has been subject to an interim order for some four years, although she has not resumed her nursing career during that time;
- Mrs Ford complains that she did not receive appropriate guidance at the start of her nursing career. She should therefore have access to a preceptorship programme in the nursing employment which she undertakes;
- Her work as a nursing auxiliary has been in a challenging environment. That should stand her in good stead for resuming her nursing career, and;
- Mrs Ford should be able to take a test of competence during that period or complete a return to practice course.

Taking these matters into account, the panel determined that the conditions of practice order should be for 12 months. However, it accepted that there should be a review before the elapse of that period.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

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

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

1. You must limit your nursing practice to a single employer, not in the community, who can provide you with a preceptorship programme. This employer must not be an agency or bank.

2. On commencement of your employment, you must undertake a preceptorship programme.

3. You must ensure that you are supervised at any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by another registered nurse.

4. You must meet with your line manager, supervisor, mentor or preceptor every month to discuss your clinical practice and performance, particularly in relation to:
   - Medications management and administration;
   - Record keeping
   - Infection prevention and control;
   - Prioritisation or care, and;
   - Assessment of patients and care planning.

5. You must send a report to your case officer prior to any review hearing, from your line manager, supervisor, mentor or preceptor outlining your clinical practice and performance, particularly in relation to:
   - Medications management and administration;
   - Record keeping
   - Infection prevention and control;
   - Prioritisation or care, and;
   - Assessment of patients and care planning.

6. [PRIVATE]

7. You must keep us informed about anywhere you are working by:
   a) Telling your case officer within seven days of accepting or leaving any employment.
   b) Giving your case officer your employer's contact details.

8. You must keep us informed about anywhere you are studying by:
   a) Telling your case officer within seven days of accepting any course of study.
   b) Giving your case officer the name and contact details of the organisation offering that course of study.

9. You must immediately give a copy of these conditions to:
   a) Any organisation or person you work for.
   b) Any employers you apply to for work (at the time of application).
   c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

10. You must tell your case officer, within seven days of your becoming aware of:
    a) Any clinical incident you are involved in.
    b) Any investigation started against you.
    c) Any disciplinary proceedings taken against you.

11. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

a) Any current or future employer.
b) Any educational establishment.
c) Any other person(s) involved in your retraining and/or supervision required by these conditions.

The period of this order is for 12 months.

Before the order expires, a panel will hold a review hearing to see how well Mrs Ford has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- A reflective piece setting out how Mrs Ford's shortcomings when at the Trust will have impacted on patients and colleagues;
- Evidence of any ongoing training;
- Testimonials from colleagues and / or patients;
- Mrs Ford's attendance at a future hearing.

This will be confirmed to Mrs Ford in writing.

Interim order

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the conditions of practice sanction takes effect.

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

Submissions on interim order

The panel took account of the submissions made by Mr Smith. He submitted that an interim order is sought based on the findings of the panel. Mr Smith submitted that an interim conditions of practice order is necessary for the protection of the public, and in the wider public interest.

Mrs Ford made no submissions as to whether an interim order should be imposed.

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 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 the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months.

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

That concludes this determination.