

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

**Substantive Order Review Hearing
Wednesday, 8 April 2026**

Virtual Hearing

Name of Registrant: Ruffa Hernandez

NMC PIN: 21K02040

Part(s) of the register: Nurses part of the register Sub part 1 RNA, Registered Nurse – Adult (03 November 2021)

Relevant Location: Worthing

Type of case: Misconduct/Lack of competence

Panel members: Nicholas Rosenfeld (Chair, Lay member)
Mitchell Parker (Lay member)
Rowena Chapman Doughty (Registrant member)

Legal Assessor: Fiona Barnett

Hearings Coordinator: Eidvile Banionyte

Nursing and Midwifery Council: Represented by Nina Dunn, Case Presenter

Miss Hernandez: Not present and unrepresented

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect on 21 May 2026 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Hernandez was not in attendance and that the Notice of Hearing had been sent to Miss Hernandez's registered email address by secure email on 10 March 2026, no later than 28 days prior to today's hearing.

Ms Dunn, 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). She also confirmed that the email address used to serve this notice was the registered email address for Miss Hernandez.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Hernandez'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 Miss Hernandez has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Hernandez

The panel next considered whether it should proceed in the absence of Miss Hernandez. The panel had regard to Rule 21 and heard the submissions of Ms Dunn who invited the panel to continue in the absence of Miss Hernandez. She submitted that Miss Hernandez had voluntarily absented herself.

Ms Dunn submitted that there had been no engagement at all by Miss Hernandez with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

Ms Dunn informed the panel that an email was sent to Miss Hernandez on 24 March 2026 inquiring about her attendance at this hearing, but no response was received.

Ms Dunn submitted that it was in the public interest to review this order before it expires on 20 May 2026.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Hernandez. In reaching this decision, the panel has considered the submissions of Ms Dunn and the advice of the legal assessor. It has had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Hernandez;
- Miss Hernandez has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

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

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 20 May 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 17 April 2025.

The current order is due to expire at the end of 20 May 2026.

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

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you a registered nurse, failed to demonstrate the standards of knowledge, skill, and judgment required to practise without supervision as a Band 5 nurse, in that you between 1 August 2022 & 15 June 2023 whilst working at Worthington Hospital;

1) On 3/4 August 2022;

a) Incorrectly administered paracetamol without ensuring that there was a 4-hour gap, in between doses to;

i) Patient G

ii) Patient H

iii) Patient I

iv) Patient J

v) Patient K

b) Inappropriately stated you had left paracetamols on patient bedside tables.

2) On 7 October 2022;

a) *Did not communicate with one or more colleagues to determine whether the medication round needed to be completed.*

b) *Had to be prompted to start the medication round.*

c) *Did not respond to an alarm on Patient Z's variable rate insulin pump, in a timely manner.*

d) *Did not understand why the alarm on the variable rate insulin pump was setting off.*

e) ...

i) ...

ii) ...

f) ...

3) *Did not adequately complete your performance improvement plan following its commencement on 10 October 2022.*

4) *On one or more occasion incorrectly documented prospective care in patient records, at the start of your shift.*

5) ...

a) ...

b) ...

c) ...

d) ...

6) *On 31 December 2022;*

a) *Incorrectly asked Colleague Y to check an insulin dose without drawing the insulin into the syringe.*

b) *Incorrectly drew 13 units of insulin into a 100 unit syringe.*

c) *Administered insulin due to Patient L at 08:00 at around 09:50.*

d) *Did not record/carry out a blood sugar reading for Patient L before administering the insulin, as required.*

7) *On 5 January 2023;*

a) *Failed to identify/record a pressure sore on Patient B's hip.*

b) *Incorrectly assessed Patient B's pressure sore on his hip, as;*

i) *A bruise.*

ii) *'Vulnerable'*

8) *Did not adequately complete a performance improvement plan following its commencement on 8 February 2023.*

9) *On or around 20 March 2023 redressed an unknown patient's necrotic foot wound, without following the correct aseptic technique, in that you;*

a) *Redressed the wound without wearing sterile gloves;*

ii) *Placed the wound care pack on the bed.*

10) *On an unknown date inappropriately administered aspirin to an unknown patient, without waiting for advice from the Doctor.*

11) *On or around 25 March 2023;*

a) *Did not demonstrate knowledge around how to administer over 50 units of insulin.*

b) *Inappropriately extracted insulin from an insulin pen, going through the rubber stop using a needle.*

12) *On 14 April 2023;*

a) *Did not use your initiative to complete tasks, in that you had to be told what to do repeatedly;*

b) *Inaccurately informed an unknown patient's relative that the patient was aggressive/agitated.*

c) ...

d) ...

13) ...

14) *On an unknown date during a training scenario;*

a) *Were unable to place a breathing mask on a patient;*

b) *Were unable to fill the breathing chamber by inflating the plastic bag.*

15) ...

16) *Around April 2022/2023, during a training scenario;*

a) *Were unable to identify signs of patient deterioration, namely;*

i) *The patient's blood pressure dropping;*

ii) The patient's respiratory rate going up.

b) Were unable to put a re-breather mask on.

c) When provided feedback by senior staff members;

i) Responded in abrupt manner;

ii) DisMsd the feedback.

17) On 20 April 2023 communicated abruptly with an unknown patient.

18) On 21 April 2023;

a) Failed to demonstrate the initiative to ask your supervisor about medication administration.

19) On or around 3 May 2023;

a) ...

b) Provided one or more handovers which were;

i) Rushed;

ii) Unclear.

20) On one or more occasions on unknown dates were unable to demonstrate good time management, in that you;

a) Left the task of redressing patients;

i) Till the end of your shift;

ii) For night staff to undertake.

b) Would take 2.5 hours to complete the medication rounds.

c) Would record your patient notes in a prospective manner at 09:00

d) Would document inaccurate information, in patient records.

21) On an unknown date, were unable to demonstrate knowledge around a body map.

22) On 1 June 2023;

a) Undertook an inaccurate assessment of an unknown patient's respiratory rate.

b) Complained about having to work in a Covid area.

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

That you a registered nurse, whilst working at Worthington Hospital;

23) ...

24) ...

25) On 31 December 2022 Inaccurately recorded that that you had administered insulin to Patient L at 08:03.

26) ...

27) ...

28) ...

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

The original panel determined the following with regard to impairment:

Misconduct:

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk

to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that a patient was put at risk and could have been caused physical harm as a result of Miss Hernandez's misconduct. Miss Hernandez's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel did consider the fourth limb of the Grant test in relation to Mr Radley's submission and have decided it is not engaged.

Regarding insight, the panel considered that Miss Hernandez demonstrated limited insight shown only in a Reflective Account and comments made by Miss Hernandez at a Trust Capability Hearing dated 5 July 2023. The panel considered that Miss Hernandez's Reflective Account was very limited and does not demonstrate learning from the incident, an understanding of the full seriousness of her actions nor does it identify the changes that need to be made in Miss Hernandez's future practise. The panel considered that Miss Hernandez was presented with opportunities to demonstrate insight that included more depth of the potential harm and a recognition of what occurred.

The panel carefully considered the evidence before it in determining whether or not Miss Hernandez has taken steps to strengthen her practice. The panel took into account the Reflective Account and comments made by Miss Hernandez at the Trust Capability Hearing dated 5 July 2023 and concluded that these efforts to strengthen her practice were limited.

The panel is of the view that there is a risk of repetition. The panel noted it heard from numerous witnesses about the action Miss Hernandez took in Charge 25. The panel also noted Miss Hernandez was asked to look at British National Formulary (BNF) and Medusa (the injectable medication guide), and there were steps identified for Miss Hernandez to take in order to remediate yet she continued to inaccurately record the administration of medication.

The panel considered that there was evidence that Miss Hernandez had opportunities in which she received helpful support from some colleagues. The panel also considered the evidence of several witnesses who reported that Miss Hernandez was not open to feedback. The panel also considered that although the Ward was a pressurised environment which had periods of understaffing, that this is often typical of wards and so it is likely that Miss Hernandez would face these same contextual circumstances again in the future. 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

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

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

Lack of competence:

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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. To justify that trust, nurses must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of CHRE v NMC and Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/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*

The panel found that patients were put at risk and were caused physical and emotional harm as a result of Miss Hernandez's lack of competence. Miss Hernandez's lack of competence had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Miss Hernandez demonstrated limited insight shown in two Reflective Accounts and comments made by Miss Hernandez at a Trust Capability Hearing dated 5 July 2023. The panel considered that Miss Hernandez's Reflective Accounts were very limited and do not demonstrate learning, an understanding of the full seriousness of her actions nor does it identify the changes that need to be made in Miss Hernandez's future practise.

In its consideration of whether Miss Hernandez has taken steps to strengthen her practice, the panel took into account Miss Hernandez's two Reflective Accounts and her comments made at the Trust's Capability Hearing dated 5 July 2023. However, the panel was of the view that Miss Hernandez's efforts to strengthen her practise were limited.

The panel is of the view that there is a risk of repetition based on the numerous discussions that occurred between Miss Hernandez and senior colleagues, yet Miss Hernandez went on to repeat the errors and the issues persisted. The panel considered that there was a pattern of incompetence over a significant period of time. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that, in this case, a finding of impairment on public interest grounds was required. The panel considered that Miss Hernandez did not uphold the proper standards required and therefore public confidence would be undermined if her practise was not restricted.

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

The original panel determined the following with regard to sanction:

'Having found Miss Hernandez'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 determined that the following were aggravating features:

- *Clinical failures – lack of medicine knowledge and ability to administer medicines safely, poor time management planning and initiative*
- *Not able to assess or deal with pressure ulcer*
- *No aseptic technique used*
- *Documentation in terms of record keeping (misconduct), not being able to accurately record meds*
- *Does not identify patient deterioration*
- *Not able to do vital observations*
- *Carrying out conduct which put people at risk*
- *Not completing Personal Improvement Plan (PIP)*
- *Impact on patients, relatives and /or fellow staff member relating to poor communication skills*

The panel determined that the following were mitigating features:

- *No history of regulatory findings before this case*
- *Toxic and bullying work environment on a pressurised Ward*
- *Attempt made to reflect and develop insight in two Reflective Accounts*
- *Some self-awareness of inability to cope with a normal workload and personal stresses*
- *Covid pandemic occurred during period in which actions occurred*

- *In some cases, there was a lack of support for Miss Hernandez from Band 6 and 7 colleagues including when she was supernumerary status and if/when Band 6 and 7 colleagues were aware of that*

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would 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, an order that does not restrict Miss Hernandez's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Miss Hernandez's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Hernandez's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *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 and*
- *The conditions will protect patients during the period they are in force.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the numerous and varied nature of the charges found to be proved in this case.

Furthermore, the panel concluded that the placing of conditions on Miss Hernandez's registration would not adequately address the seriousness of this case and would not protect the public.

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

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

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

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Hernandez's case to impose a striking-off order. The panel also determined that this was not the only sanction available to meet public interest and public protection considerations.

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

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

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the

profession a clear message about the standard of behaviour required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Radley in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking off order would be disproportionate for the reasons set out above.

The panel determined that a suspension order for a period of one year was appropriate in this case to mark the seriousness of the misconduct and to allow Miss Hernandez time to address the range of issues covering a broad range of fundamental nursing activities.

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

Any future panel reviewing this case may be assisted by Miss Hernandez:

- *Providing evidence of having undertaken study (including self-study) regarding up-to-date evidence-based practice with regards to fundamental nursing activities, using for example Google Scholar*
- *Seeking employment or voluntary experience in a care setting*
- *Providing evidence of development of communication skills*
- *Providing evidence of development of team working*
- *Providing testimonials or feedback from recent and/or current employers*
- *Providing a reflective piece reflecting on her actions and impact on patients, colleagues and the public (for example using the Gibbs Reflective Cycle)*
- *Engaging with and attending future NMC proceedings.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Hernandez's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of a professional on their register to practise as a nurse, midwife or nursing associate safely and effectively without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Ms Dunn on behalf of the NMC.

Ms Dunn outlined the brief background to the case and referred the panel to the hearing bundle.

Ms Dunn submitted that there is absence of any evidence to suggest that Miss Hernandez has taken any steps to address the range of issues in this case, which covered a broad range of fundamental nursing activities. She submitted that in the absence of any engagement and evidence to show strengthening of practice, reflection and insight, Miss Hernandez's fitness to practise remains impaired on both, public protection and public interest grounds.

Ms Dunn then addressed the panel on sanction.

Ms Dunn submitted that taking no further action or putting into place a caution order would not be appropriate or proportionate in this case, particularly noting that there has been no change since the suspension order was made 12 months ago.

With reference to conditions of practice order, Ms Dunn submitted that, noting the nature of the charges proved, there are no practical or workable conditions which could be formulated given the numerous and varied nature of the charges found proved.

Ms Dunn referred the panel to the NMC guidance on Sanction SAN-2 (last updated on 28 January 2026). She submitted that there is a persuasive burden on Miss Hernandez to demonstrate that she has fully acknowledged why her past clinical performance was deficient through insight and education. Ms Dunn submitted that Miss Hernandez's continued lack of engagement in the last 12 months means that she has not discharged this burden and that perhaps there is no realistic possibility that after a period of further suspension, she will have gained insight such that the risk she poses is reduced given her sustained lack of engagement during this entire fitness to practice process.

Ms Dunn submitted that given the above, the panel may now consider that there are now fundamental questions about Miss Hernandez's professionalism and that public confidence could not be maintained if she were not struck off from the register. She submitted that this sanction is available to the panel today because this is not solely a lack of competence case and that a misconduct charge, albeit a single one, was originally found proved by the substantive panel.

Ms Dunn invited the panel that if it was of the view that a striking-off order would be disproportionate at this point, and it decided to impose a further suspension order, a number of expectations should be set to assist the future reviewing panel.

Ms Dunn submitted that this is not a case where it would be appropriate to allow the order to lapse upon expiry and referred the panel to the NMC Guidance 'Removal from the register when there is a substantive order in place' REV-2h (last updated on 30 August 2024). She submitted that this not a case where there is any evidence to suggest her lack of engagement and insight could reasonably be attributed to a health condition, and there is no suggestion that the lack of progress is attributable to matters outside of her control.

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

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

The panel considered whether Miss Hernandez's fitness to practise remains impaired.

The panel noted that the original panel found that Miss Hernandez had demonstrated limited insight into the areas of her lack of competence as well as her misconduct, as provided within a reflective account provided a Trust capability hearing in 2023. No evidence was provided directly by Miss Hernandez to that panel.

At this hearing the panel had before it no further evidence of any insight and no information about whether Miss Hernandez has demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. There has been a complete lack of engagement by Miss Hernandez with these proceedings.

In its consideration of whether Miss Hernandez has taken steps to strengthen her practice, the panel noted that it had no evidence of any training or strengthening of practice.

The original panel determined that Miss Hernandez was liable to repeat matters of the kind found proved.

Today's panel noted that given the lack of engagement by Miss Hernandez with these proceedings it determined that the risk of repetition remains high. In light of this, this panel determined that Miss Hernandez is still liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

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

For these reasons, the panel finds that Miss Hernandez's fitness to practise remains impaired, both in relation to misconduct and the lack of competence.

Decision and reasons on sanction

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would 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 Miss Hernandez's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again'*. The panel considered that Miss Hernandez's misconduct and lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Miss Hernandez's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Hernandez's misconduct and lack of competence. The panel also noted that due to a lack of engagement, the panel had no evidence before it to reassure it that Miss Hernandez would comply with any conditions imposed.

The panel next considered imposing a further suspension order. The panel had regard to the NMC guidance on Sanction and specifically part SAN-3 (Deciding between suspension and strike off) and noted:

‘Consider the professional’s insight and attitude to addressing the concerns, and whether it is realistically possible that these will change positively during the suspension period. If it is unlikely the professional will try to address the concerns, there may not be appropriate for them to be suspended in the hopes that they will eventually return to practice.

Professionals are under an obligation to cooperate with their regulator. Where professionals have failed to engage with the fitness to practise process, it won’t usually be appropriate to use a suspension order as a means of giving them a ‘last chance’ to engage, reflect or show insight.’

The panel was mindful that it did not have the power to strike Miss Hernandez off for her lack of competency solely, but it did have the power to strike her off for her misconduct if it deemed it appropriate.

The panel noted that Miss Hernandez has not demonstrated any further insight into her previous failings and has not engaged with this fitness to practise process. Given that there is a persuasive burden on Miss Hernandez and an obligation to cooperate with her regulator, she had provided no evidence that she no longer poses a risk to the public. The panel had before it no evidence of insight, reflection, retraining or any evidence of attitudinal change to suggest she will address the concerns, or whether it is a realistic possibility that there will be any progress during the suspension period.

The panel determined that a further period of suspension would not serve any useful purpose and that Miss Hernandez is unlikely to return to safe and professional practice within a reasonable time.

Given the comments above, the panel concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 20 May 2026 in accordance with Article 30(1).

This decision will be confirmed to Miss Hernandez in writing.

That concludes this determination.