

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

**Substantive Meeting
Tuesday, 13 August 2024- Wednesday, 14 August 2024**

Virtual Meeting

Name of Registrant: Rachel Clare Day

NMC PIN 9817148E

Part(s) of the register: Nurses part of the register Sub part 1
RNA: Adult nurse, level 1 (26 November 2001)

Specialist community public health nursing part
of the register
RHV: Health visitor (25 November 2010)

Relevant Location: Cambridgeshire

Type of case: Misconduct

Panel members: Ashwinder Gill (Chair, Lay member)
Helen Reddy (Registrant member)
Laura Wallbank (Registrant member)

Legal Assessor: Attracta Wilson

Hearings Coordinator: Eidvile Banionyte

Facts proved by admission: Charges 1 and 2

Fitness to practise: Impaired

Sanction: **Conditions of practice order (9 months)**

Interim order: **Interim conditions of practice order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Day's email address, previously used to correspond with the NMC, by secure email on 3 July 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mrs Day has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004' (the Rules).

Details of charge

That you, a registered nurse:

1. Between 20 February 2021 and 22 October 2021 failed to make 159 entries in the clinical records of 117 service users;
2. By your actions at charge 1 above you failed to preserve the safety of service users

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

Background

Mrs Day has been a Registered Nurse since 25 November 2001, initially specialising in adult nursing. She subsequently qualified and specialised in health visiting on 24 November 2010.

On 1 December 2021, the Nursing and Midwifery Council (“NMC”) received a referral from Cambridgeshire Community Services NHS Trust (“the Referrer”) raising concerns about Mrs Day’s practice.

At the time of the concerns, Mrs Day was working as a Family Public Health Nurse or Health Visitor for the Referrer. During October 2021 the Referrer became aware that Mrs Day appeared to be having difficulties with completing her record keeping in a timely manner.

The Referrer investigated their concerns regarding Mrs Day’s record keeping and discovered that she had failed to record in 117 individual children/adult records between 20 February 2021 and 22 October 2021. Of the identified 117 individuals, there were 159 missed contacts. The Referrer identified the potential for serious risk of harm. Mrs Day informed the Referrer that her role was contributing to [PRIVATE].

The Referrer concluded from their investigation that Mrs Day had raised difficulties she was having with record keeping to the leadership team and that she had asked for support. A plan had been put in place however this was not fully implemented by the employer. The Referrer decided to take no further disciplinary action.

Decision and reasons on facts

At the outset of the meeting, the panel noted Mrs Day's written response to the charges signed and dated 30 July 2024, which stated that Mrs Day had made full admissions to the facts underpinning charges 1 and 2.

The panel therefore finds the facts relative to charges 1 and 2 proved in their entirety, by way of Mrs Day's admissions.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Day's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Day's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

The panel was referred to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*' Further the panel was referred to the

cases of *Calhaem v GMC* [2007] EWHC 2606 (Admin) and *Nandi v GMC* [2004] EWHC 2317 (Admin).

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The NMC identified the specific, relevant standards of *'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)'* ("the Code") where Mrs Day's actions amounted to misconduct.

The NMC provided the following submissions in relation to misconduct.

'The NMC considers the conduct in this case serious and that it amounts to serious misconduct. Mrs Day's failings, as set out in the charges, involved failing to maintain records of a large number of service users over a significant period of time. Her actions posed a risk to patient safety, especially in relation to service users who were from high-risk families where there were safeguarding concerns.

By failing to make the required entries in service users' records, as detailed in charge 1, Mrs Day breached her duty under paragraphs 10.1 and 10.2 of the Code as she failed to complete records at the relevant time and failed to ensure that any risks or problems were recorded to allow professionals who use the relevant records to have all the required information.

In relation to charge 2, Mrs Day failed to preserve the safety of service users, due to her actions in charge 1, and as a consequence breached her duty under paragraph 17.1 of the Code. In failing to preserve the safety of service users due to neglecting to keep their records current and accurate, she failed to take all reasonable steps to protect those service users, particularly those in high-risk families where there were safeguarding concerns, who were likely to have been vulnerable or at risk of harm, neglect or abuse.

Mrs Day has breached paragraph 20.1 of the Code in that her actions, as detailed in the charges, demonstrate that she failed to uphold and keep the standards and values of the Code.

The NMC invite the panel to find that the charges are a sufficiently serious departure from expected standards to amount to misconduct in that Mrs Day's actions fell far short of what would be proper in the circumstances in respect of each charge.'

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel was referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), *Cohen v GMC* [2008] EWHC 581 (Admin) and *Zygmunt v GMC* [2008] EWHC 2643 (Admin).

The NMC provided the following submissions in relation to impairment.

'In terms of the nature of the concern, as detailed in the NMC's guidance on impairment, DMA-1, the following factors must be considered in the case:

- a) Whether Mrs Day in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- b) Whether Mrs Day in the past committed a breach of one of the fundamental tenets of the nursing profession and/or is liable to do so in the future.*
- c) The context of the conduct involved in the concern.*
- d) Whether it's highly unlikely that the conduct will be repeated.*

It is submitted that in relation to the above factors, a) and b) can be answered in the affirmative for this case.

Mrs Day's actions in failing to make entries in service users' records placed persons receiving care at unwarranted risk of harm. Without access to current and accurate records, other professionals involved in the care and safeguarding of those service users might not have the required information to correctly inform their decision making regarding appropriate treatment and support. While there is no suggestion that there are attitudinal issues underlying the concerns in this case, there is no

evidence of recent training presented by Mrs Day and therefore it could not be said that the risk of future harm is remote.

The nursing profession is a caring profession. Mrs Day has breached individual provisions of the Code which constitute fundamental tenets of the nursing profession, namely practising effectively and preserving safety. The conduct involved engaged and breached the above provisions.

Mrs Day's actions have breached fundamental tenets of the nursing profession relating to practising effectively and preserving safety. As per the guidance on impairment DMA-1, while not all breaches of the Code require a finding of impairment but where a breach of the Code involves breaching a fundamental tenet of the profession, the FtPC would be entitled to conclude that a finding of impairment is required.

The guidance DMA-1 sets out the following three areas which will be important for a panel to consider in respect of context: personal factors relating to the professional, the professional's working environment and culture and the learning, insight and steps the professional has taken to strengthen their practice.

In terms of context relating to personal factors, the referral notes that Mrs Day had [PRIVATE] the team during the time period in which she made the errors. There is also mention in the internal investigation of personal issues that Mrs Day was experiencing possibly having an impact on her performance. In relation to the working environment and culture, it was noted in the referral that there were staffing issues due to the Covid-19 pandemic. Also, the Referrer's disciplinary outcome letter to Mrs Day noted that while a plan had been put in place to assist her improve her record keeping, it had not been fully implemented.

In terms of learning, the NMC considers that Mrs Day has undertaken some relevant training in respect of the issues of concern. A training certificate indicating that she completed the NSCP Safer Programme Refreshing and Reflecting Course on 26 April 2022 is relevant and demonstrates a willingness to improve her practice.

When considering the issue of insight, the key criteria a registrant should address in order to demonstrate they have insight are as follows: they recognise what went wrong, they accept their role and responsibilities in the failings, and they understand how to act differently in the future. Mrs Day made full admissions to the regulatory concerns and provided a reflective statement for consideration by the Case Examiners which detailed contextual factors that impacted her ability to practise safely and effectively. In this response she addressed how she would respond to these contextual factors in the future to prevent them from negatively affecting her practice. Mrs Day, in this reflective statement, did acknowledge her actions put service users at risk and expressed remorse for this, however she did not reflect in any detail as to how her actions created the risk of harm. The NMC therefore considers that whilst some insight has been shown by Mrs Day, this insight is not fully developed.

...

As to the risk of repetition, in relation to the training Mrs Day has undertaken, due to the length of time that has elapsed since that training was completed and that no evidence of further training has been provided, the NMC considers that insufficient relevant training has been undertaken in order to demonstrate that the concerns have been fully remediated.

We note Mrs Day has worked since the issues of concern however she has also had periods absent from work due to [PRIVATE]. The most recent update from the Referrer to the NMC, in an email dated 11 October 2023, advised that Mrs Day had shown very little improvement in her workplace action plan. An update email from Mrs Day, on 1 February 2024, advised the NMC that she was signed off work due to illness until 25 April 2024. Due to this, the NMC considers that Mrs Day has been unable to fully demonstrate strengthened practice.

The NMC submit there is a continuing risk to the public due to the registrant's lack of full insight, failure to undertake sufficient relevant training and the lack of opportunity to fully demonstrate strengthened practice through recent work in a relevant area.

...

Mrs Day's conduct in failing to make entries in such a large number of service users' records and therefore failing to preserve the safety of those service users has brought the profession into disrepute. The public expects nurses to practise safely and effectively, including ensuring their contact, actions, and any provided treatment in relation to their patients be documented thoroughly to allow other professionals to be fully informed in relation to patient care and any safeguarding concerns. Mrs Day's actions clearly breached the expected standards of a registered professional. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

A finding of impairment is required to mark the profound unacceptability of the behaviour, emphasise the importance of the fundamental tenets breached and to reaffirm the proper standards of behaviour.

We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior (sic).'

In Mrs Day's written response to the charges signed and dated 30 July 2024, she admitted that her fitness to practice is impaired by reason of her misconduct. However, it was not clear to the panel that Mrs Day understood that impairment means current impairment. This view was supported by the NMC and the panel therefore proceeded on the basis that current impairment is not admitted. Mrs Day provided supporting documentation with regards to her mitigating and contextual circumstances at the relevant time. Further she supplied the panel with an up-to-date reflective piece.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *Cohen v GMC* [2008] EWHC 581 (Admin).

Decision and reasons on misconduct

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

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

10 Keep clear and accurate records relevant to your 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

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that these breaches fell seriously short of the standards expected of a registered nurse. The panel had regard to the importance of accurate record keeping, and a potential risk of harm as Mrs Day's role involved

safeguarding of vulnerable patients. The panel further noted the volume of the omissions and the period of time over which they spanned.

The panel found that Mrs Day's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Day'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. 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 her fitness to practise is impaired in the sense that she:

- 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 finds that patients were put at risk of harm as a result of Mrs Day's misconduct. Mrs Day's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Mrs Day shown remorse and developed full insight, as evidenced in her reflective piece sent to the NMC on 5 August 2024. Mrs Day has demonstrated an understanding of how her actions put the patients and their families at a risk of harm. The panel determined that Mrs Day has demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel also determined that Mrs Day has undergone [PRIVATE], and that she has plans in place which will enable her to return to practice.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or

not Mrs Day has taken steps to strengthen her practice. The panel took into account the detailed reflective piece written by Mrs Day addressing the concerns. The panel noted that whilst Mrs Day stated that she has undertaken further training in the System 1 record keeping tool and has reflected on her misconduct, it was of the view that she has not yet had sufficient opportunity to test her learning and insight in a clinical practice.

The panel is of the view that there is a risk of repetition because Mrs Day has not yet been able to demonstrate in practice the most recent reflective statement, received by the NMC on 5 August 2024, which indicates full insight. Further the panel noted that Mrs Day has not had the opportunity to demonstrate her coping mechanisms [PRIVATE], between 21 June 2023 to 28 February 2024. 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 determined that a finding of impairment on public interest grounds is required because a well-informed member of the public, knowing all the circumstances of the case, would be concerned if Mrs Day continued to practise unrestricted, without her learning and insight being tested in clinical practice. In addition, 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 Mrs Day's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Day'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 a period of 9 months. The effect of this order is that Mrs Day'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.

Representations on sanction

The NMC highlighted the aggravating and mitigating factors in this case. The NMC invited the panel to impose a Conditions of Practice Order with review for a period of 12 months.

'The NMC are of the view that a 12 month conditions of practice order with review would be appropriate and proportionate. As per the guidance in SAN-3c, in this case, there is no evidence of harmful deep-seated personality or attitudinal problems and no evidence of general incompetence. There are identifiable areas of Mrs Day's practice that are in need of assessment and/or retraining and conditions could be formulated to address these areas that could be monitored and assessed. As a result of the admissions made by Mrs Day in the Response to Regulatory Concerns Form dated 22 November 2022 in which she accepted the regulatory concerns in full, the Case Examiners recommended the case for undertakings. During the period in this case when undertakings were being considered, Mrs Day appeared to have agreed in principle to workable conditions that would have allowed her to strengthen her practice while protecting the public. However, the case was subsequently referred to the Fitness to Practise Committee as the Case Examiners were unable to agree to Mrs Day's request that the undertakings were not published.

The NMC acknowledge that it is for the panel to select appropriate conditions of practice however submit that the following conditions would address the concerns in this case, protect the public and allow Mrs Day to strengthen her practice:

- 1. You will be supervised by a more senior registered nurse who will be responsible for ensuring that your supervision arrangements can identify any issues with your practice and ensure that the safety of families is maintained. Your supervision will consist of:*

- a) direct and indirect supervision appropriate to your development needs and any potential risks*
- b) weekly reviews of an appropriate sample of your record keeping for the first 3 months, then monthly reviews thereafter. The reviews should include an assessment of whether your record keeping meets required standards.*

2. You will work with your future line manager to create a personal development plan ('PDP'). Your PDP will address the concerns about your record keeping, maintaining required contacts with service users, and keeping people safe. You will:

- a) Send your case officer a copy of your PDP within 14 days of returning to employment as a registered nurse.*
- b) Meet with your line manager or their nominated deputy at least once every 4 weeks to discuss progress towards achieving the aims set out in your PDP.*
- c) Send your case officer a report from your line manager every 12 weeks. This report will set your progress towards achieving the aims set out in your PDP.*

3. You will ensure that you attend fortnightly safeguarding supervision sessions with a Band 7 or above registered nurse experienced in safeguarding supervision. Your supervision will include meetings every two weeks for the first 3 months to discuss any safeguarding issues that have emerged in your clinical work and any review your action plans and management of these issues. If satisfactory, these meetings may progress to monthly for the next 3 months and thereafter every 3 months until month 12. This does not prohibit you from having more frequent safeguarding supervision should this be required.

4. You will keep a reflective practice profile. The profile will consist of detailed information regarding your record keeping, keeping people safe, and maintaining the required contacts with service users. It will also contain any learning undertaken, any identified gaps in your knowledge and details of

how you will address these gaps. You will submit this reflective profile every 12 weeks. The fourth and final profile will be submitted 48 weeks after the commencement of these conditions.

5. You will 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 contact details of your employer.*

6. You will 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 contact details of the organisation offering that course of study.*

7. You will immediately give a copy of these conditions to:

- a) Any organisation or person you work for.*
- b) Any agency you apply to or are registered with to work for.*
- c) Any establishment you apply to (at the time of application) for work.*
- d) Any establishment you apply to (at the time of application), or with which you are enrolled for a course of study.*

8. You will tell your case officer within 7 working 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.*

9. You will allow your case officer to share, as necessary, details about your performance, your compliance with and progress towards completing these conditions with:

- a) Any future employer*
- b) Any educational establishment.*

c) Any other person(s) involved in your re-training and/or supervision required by these conditions.'

Decision and reasons on sanction

Having found Mrs Day'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:

- Multiple failings affecting a large number of service users;
- Failings took place over an extended period of time.

The panel also took into account the following mitigating features:

- Mrs Day's full admissions in relation to the regulatory concerns;
- The impact of Mrs Day's [PRIVATE] on her practice at the time of the concerns;
- Mrs Day's attempts to escalate her concerns to her managers to seek support and the employer accepted that they failed to offer sufficient support;
- Mrs Day has shown full insight as evidenced in her reflective piece;
- Mrs Day has shown remorse and has taken steps to mitigate from the concerns occurring again;
- Mrs Day's personal mitigation at the time of the concerns;

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 Mrs Day's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Day'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 Mrs Day'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 harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse's practice in need of assessment;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *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 had regard to the fact that the NMC accept that there are no attitudinal issues in this case. The panel was of the view that it was in the public interest that, with appropriate safeguards, Mrs Day should be able to return to practise as a nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of this case because Mrs Day would not be able to strengthen her practice and demonstrate how she would implement her reflection into practice.

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 ensure that you are supervised by a more senior registered nurse. Your supervision must consist of:
 - a) Indirect supervision appropriate to your development needs and any potential risks;
 - b) fortnightly reviews of an appropriate sample of your record keeping for the first 3 months, then monthly reviews thereafter. The reviews should include an assessment of whether your record keeping meets required standards.

2. You must work with your line manager, their nominated deputy or your supervisor to create a personal development plan (‘PDP’). Your PDP must address the concerns about your record keeping, maintaining required contacts with service users, and keeping people safe. You must:
 - a) Send your case officer a copy of your PDP within 28 days of returning to employment as a registered nurse;

- b) Meet with your line manager, their nominated deputy or your supervisor at least once every two weeks to discuss progress towards achieving the aims set out in your PDP;
 - c) Send your case officer a report from your line manager, their nominated deputy or your supervisor, at 4 months and at least 28 days prior to the review of this conditions or practice order. This report will set your progress towards achieving the aims set out in your PDP.
- 3. You must ensure that you attend safeguarding supervision sessions with a Band 7 or above registered nurse experienced in safeguarding supervision. Your supervision must include fortnightly meetings for the first 3 months and then monthly thereafter. You should discuss any safeguarding issues that have emerged in your clinical work, review of your action plans and management of these issues.
- 4. You must keep a reflective practice profile. The profile will consist of detailed information regarding your record keeping, keeping people safe, and maintaining the required contacts with service users. It will also contain any learning undertaken, any identified gaps in your knowledge and details of how you will address these gaps. You must submit this reflective profile to your case officer at least 28 days prior to the review of this conditions of practice order.
- 5. 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.
- 6. 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.
7. You must immediately give a copy of these conditions to:
- a) Any organisation or person you work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
8. 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.
9. 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 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 9 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Day 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.

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 Mrs Day's own interests until the conditions of practice sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

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

'If a finding is made that the registrant's fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed, we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.'

'If a finding is made that the registrant's fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registration, we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.'

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts

found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that 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, to allow for the possibility of an appeal to be made and determined.

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 Day is sent the decision of this hearing in writing.

That concludes this determination.