

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

**Substantive Order Review Meeting
Monday 24 June 2024**

Virtual Meeting

Name of Registrant: Shauna Randeniya

NMC PIN 21L0014W

Part(s) of the register: Nurses part of the register-Sub Part 1
RNA: Adult nurse, level 1 (07 February 2022)

Relevant Location: Conwy County

Type of case: Misconduct

Panel members: Susan Thomas (Chair, Lay member)
Jason Flannigan-Salmon (Registrant member)
Asmita Naik (Lay member)

Legal Assessor: Michael Levy

Hearings Coordinator: Rebecka Selva

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months)
to come into effect on 8 August 2024 in accordance
with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Miss Randeniya's registered email address by secure email on 22 May 2024.

The panel took into account that the Notice of Meeting provided details that the review meeting would be held no sooner than 24 June 2024 and inviting Miss Randeniya to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In light of all of the information available, the panel was satisfied that Miss Randeniya 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 (as amended) (the Rules).

Decision and reasons on review of the current order

The panel decided to confirm and continue the current conditions of practice order. This order will come into effect at the end of 8 August 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 7 July 2023.

The current order is due to expire at the end of 8 August 2024.

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, whilst employed at Colwyn Bay Community Hospital, on 29 January 2022;

- 1) *Did not attend/undertake observations for a patient complaining about chest pains, in a timely manner or at all* **[PROVED BY ADMISSION]**
- 2) *Between 12:15 and 14:15, on one or more occasions as listed in Schedule 1, failed to check Patient A.* **[PROVED BY ADMISSION]**
- 3) *Incorrectly recorded on Patient A's 15 Minute Check form that you had undertaken one or more of the checks listed in Schedule 1.* **[PROVED BY ADMISSION]**
- 4) *Incorrectly recorded on Patient A's Behaviour chart that you had checked Patient A at:* **[PROVED BY ADMISSION]**
 - a. 13.00;
 - b. 14.00.
- 5) ...
- 6) *At around 19.15 incorrectly recorded on Patient B's 15 Minute check form that you had undertaken checks at:*
 - a. ...
 - b. 20.00. **[PROVED BY ADMISSION]**
- 7) ...

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:

'The panel next went on to decide if as a result of the misconduct, Miss Randeniya'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. 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", in the fifth Shipman report 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) *...'*

The panel found that the first three limbs a), b), c) of Grant were engaged.

The panel finds that patients were put at risk of harm as a result of Miss Randeniya's misconduct. Not checking on a patient who complained of chest pain in a timely manner posed a significant risk of harm and possible patient deterioration. Miss Randeniya's misconduct of completing documentation for Patient A who was in fact absent from the ward created a false impression that nothing untoward had occurred, when in fact it had, could have resulted in adverse consequences. Failing to communicate with colleagues to inform and carry out assessments and observations at the correct time led to an unsafe environment for patients on the ward. The panel, therefore determined that Miss Randeniya had breached the fundamental tenets of the nursing profession and brought its reputation into disrepute. The panel was of the view that a member of the public would find Miss Randeniya's conduct concerning and confidence in the nursing profession and the NMC as a regulator would be undermined if a finding of current impairment was not made.

The panel considered that Miss Randeniya is still developing her insight and has shown some understanding that her actions were wrong as demonstrated in her reflective accounts. However, the panel was of the view that the accounts provided, lacked depth in her ability to explain what impact and consequences her actions may have caused her patients, colleagues, the hospital, the nursing profession and the public. There is no evidence that Miss Randeniya fully understands the rationale for using the 15 minute check charts or the behaviour charts and how they enhance patient safety.

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

determining whether or not Miss Randeniya has taken steps to strengthen her practice. The panel considered that Miss Randeniya has undertaken some training and provided the following certificates: Continuing Professional Development in Documentation and Record-Keeping- Level 2 dated 26 June 2022, Record Keeping, Data Protection and Access to Records dated 17 November 2022, Good record-keeping dated 18 November 2022. Miss Randeniya also referenced some of her learning contracts from her student training placements showing successful assessments of her work and attitude. The panel was mindful that these latter documents related to the time when Miss Randeniya was a student in training and therefore supernumerary and gave them less weight accordingly. Miss Randeniya has demonstrated remorse for her actions through her reflective accounts.

However, the panel is of the view that there is a risk of repetition by Miss Randeniya of the charges found proved. Although she remained in employment for three months after the incidents, it was as a band 2 healthcare assistant. She has not been successful in securing further employment and has therefore been unable to demonstrate her ability to practise safely and effectively and address the concerns raised. There is no evidence before the panel today which shows Miss Randeniya has put her training regarding record-keeping into practice in the health or social care sector. Nor has she been able to demonstrate improvement in her communication with colleagues and effectiveness in these aspects of her practice. Therefore, the panel cannot be satisfied that she has remediated and strengthened her practice. The panel determined that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 public confidence in the profession would be undermined if a finding of current impairment were not made in this case. The panel also finds Miss Randeniya's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Randeniya's fitness to practise is currently impaired in three areas of the code:

- *Prioritise people*
- *Practise effectively*
- *Promote professionalism and trust'*

The original panel determined the following with regard to sanction:

'Having found Miss Randeniya'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 also had regard to the context in which Miss Randeniya's misconduct occurred as already referred to in its finding of facts.

The panel took into account the following aggravating features:

- *Record keeping failures linked to a vulnerable patient*
- *Repetition of these failures in entries for Patient A's 15-minute checks and behaviour charts.*
- *Conduct which put patients at risk of significant harm*

The panel also took into account the following mitigating features:

- *Acceptance of regulatory concerns*
- *Being open and honest*
- *Engagement with the NMC throughout the process*
- *Very early stage of her career without a preceptorship programme in place*
- *Evidence of developing insight*

The panel recognised that Miss Randeniya completed the latter part of her training during the Covid 19 pandemic.

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 risk of repetition and public protection issues identified as Miss Randeniya has not had an opportunity to strengthen her practice. 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 Randeniya'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 Randeniya'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 Randeniya'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 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.*

For the avoidance of doubt, the panel did not consider that Miss Randeniya's failures evidenced general incompetence. Rather she had shown lack of competence in the areas of:

- 1. Communication and team working*
- 2. Record keeping*
- 3. Patient safety particularly when patients have altered cognition*
- 4. Organisation, planning and prioritisation of workload*

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 noted that Miss Randeniya has shown a willingness to learn from her wrongdoing and maintains her commitment to nursing as her vocation.

The panel had regard to the fact that Miss Randeniya was in the early stages of her career when the incidents happened. It considered that Miss Randeniya needs more time to develop the knowledge and skills to become a competent nurse. Witness 2 told the panel that Miss Randeniya could achieve the competencies required of a registered nurse with the appropriate level of support. The panel was of the view that it was in the public interest that, with appropriate safeguards, Miss Randeniya should be able to return to practise as a nurse.

Balancing all of these factors, the panel determined 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 Miss Randeniya's case. It considered that to impose a suspension order in Miss Randeniya's case would be punitive and would not serve any useful

purpose. Specifically, it would not allow her to address the failures identified in her 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 limit your nursing practice to one substantive employer, which must be either an NHS Health Board or NHS Trust and which has a preceptorship programme in which you must enrol and engage fully with its requirements.*
- 2. You must ensure that you are supervised by a registered nurse 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 a registered nurse.*
- 3. You must keep a reflective practice log. The log will facilitate you to record your learning from general work and specific incidents. It should include your reflections on your practice in the following areas:*
 - a) Communication and team working*
 - b) The effectiveness and consequences of accurate record keeping and how*

misunderstandings can occur if records are not accurate

c) Patient safety particularly when patients have altered cognition

d) Your strategies to coordinate, organise and prioritise care for patients, particularly at times of increased workload or staff shortages

4. You must take your reflective practice log with you to your meetings with your mentor/preceptor, to discuss and reflect on your progress with the conditions.

5. You must work with your line manager to create a personal development plan (PDP). Your PDP must address the following concerns:

i. Communication and team working

ii. Record Keeping

iii. Patient safety particularly when patients have altered cognition

iv. Organisation, planning and prioritisation of workload

You must:

- Send your NMC case officer a copy of your PDP within seven days of its creation.*
- Send your NMC case officer a report from your Mentor seven days in advance of your next NMC hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.*

6. You must engage with your mentor/preceptor on a frequent basis to ensure you are making progress towards the aims set in your PDP. Such engagement must be weekly for the first month of your employment and continue weekly thereafter until your mentor/preceptor is satisfied that the frequency can be reduced to a minimum of monthly.

7. *You must keep the NMC 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 NMC 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 patient safety incident involving a patient whose care you have direct responsibility for.*
 - 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 Miss Randeniya 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 that provides evidence of your journey to becoming a competent registered nurse who meets the required standards and complies with the Code and how you have strengthened your practice as a result of these incidents.*
- Testimonials from current colleagues, mentor/preceptor or line manager that detail your current work practices*
- Continued engagement with the NMC and attendance at hearings'*

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it, including the NMC bundle and the written response from Miss Randeniya.

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 Randeniya's fitness to practise remains impaired.

The panel noted that the original panel found that Miss Randeniya had developing insight.

In its consideration of whether Miss Randeniya has taken steps to strengthen her practice, the panel took account of Miss Randeniya's written response dated 17 June 2024 in which she outlines that she has been attempting to secure training but has not been successful. Apart from this, there was limited further information to show progress was being made towards meeting the conditions of practice order. The panel considered that Miss Randeniya is newly qualified as a registered nurse and has not had any opportunities to secure further training, therefore, she has not had the opportunity to further strengthen or maintain her skills.

In light of this, the panel determined that Miss Randeniya 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 Randeniya's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Randeniya 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 Randeniya'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 Randeniya'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 imposing a further conditions of practice order on Miss Randeniya's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that the misconduct related to poor judgement rather than clinical competence. In this case, there are conditions could be formulated which would protect patients during the period they are in force. The panel noted that despite the difficulties in acquiring training, Miss Randeniya could explore if there are other options available to her to still make progress towards meeting the 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 Miss Randeniya's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 8 August 2024. It decided to confirm and continue the following conditions which it considered are appropriate and proportionate in this case:

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

1. *You must limit your nursing practice to one substantive employer, which must be either an NHS Health Board or NHS Trust and which has a preceptorship programme in which you must enrol and engage fully with its requirements.*
2. *You must ensure that you are supervised by a registered nurse 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 a registered nurse.*
3. *You must keep a reflective practice log. The log will facilitate you to record your learning from general work and specific incidents. It should include your reflections on your practice in the following areas:*
 - a. *Communication and team working*
 - b. *The effectiveness and consequences of accurate record keeping and how misunderstandings can occur if records are not accurate*

- c. *Patient safety particularly when patients have altered cognition*
 - d. *Your strategies to coordinate, organise and prioritise care for patients, particularly at times of increased workload or staff shortages*
4. *You must take your reflective practice log with you to your meetings with your mentor/preceptor, to discuss and reflect on your progress with the conditions.*
5. *You must work with your line manager to create a personal development plan (PDP). Your PDP must address the following concerns:*
- i. *Communication and team working*
 - ii. *Record Keeping*
 - iii. *Patient safety particularly when patients have altered cognition*
 - iv. *Organisation, planning and prioritisation of workload*

You must:

- *Send your NMC case officer a copy of your PDP within seven days of its creation.*
 - *Send your NMC case officer a report from your Mentor seven days in advance of your next NMC hearing or meeting. This report must show your progress towards achieving the aims set out in your PDP.*
6. *You must engage with your mentor/preceptor on a frequent basis to ensure you are making progress towards the aims set in your PDP. Such engagement must be weekly for the first month of your employment and continue weekly thereafter until your mentor/preceptor is satisfied that the frequency can be reduced to a minimum of monthly.*

7. *You must keep the NMC 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 NMC 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 patient safety incident involving a patient whose care you have direct responsibility for.*
 - 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.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 8 August 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Miss Randeniya 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 that provides evidence of your journey to becoming a competent registered nurse who meets the required standards and complies with the Code and how you have strengthened your practice as a result of these incidents.
- Testimonials from current colleagues, mentor/preceptor or line manager that detail your current work practices.
- Continued engagement with the NMC and attendance at hearings.

This will be confirmed to Miss Randeniya in writing.

That concludes this determination.