Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Hearing
Monday, 20 May 2024 – Friday, 24 May 2024

Virtual Hearing

Name of Registrant:	**Animol Puthanpurackal Thomas**
NMC PIN	22C1767O
Part(s) of the register:	Nursing, Sub Part 1 RNA, Registered Nurse – Adult (March 2022)
Relevant Location:	Essex
Type of case:	Misconduct/Lack of knowledge of English
Panel members:	Peter Fish (Chair, lay member) Vanessa Bailey (Registrant member) Alison Lyon (Lay member)
Legal Assessor:	Gillian Hawken
Hearings Coordinator:	Nandita Khan Nitol (20 - 23 May 2024) Taymika Brandy (24 May 2024)
Nursing and Midwifery Council:	Represented by Conall Bailie, Case Presenter
Ms Puthanpurackal-Thomas:	Not present and not represented at the hearing
Facts proved:	Charges 1a), 1b), 2, 3, 4, 5a), 5b) and 6.
Facts not proved:	Charge 1c)
Fitness to practise:	**Impaired**
Sanction:	**Suspension order (12 months)**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Puthanpurackal-Thomas was not in attendance and that the Notice of Hearing letter had been sent to Ms Puthanpurackal-Thomas' registered email address by secure email on 17 April 2024.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time and dates of the hearing and that it was to be held virtually, including instructions on how to join and, amongst other things, information about Ms Puthanpurackal-Thomas' 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 Ms Puthanpurackal-Thomas has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Ms Puthanpurackal-Thomas

The panel next considered whether it should proceed in the absence of Ms Puthanpurackal-Thomas. It had regard to Rule 21 and heard the submissions of Mr Bailie who invited the panel to continue in the absence of Ms Puthanpurackal-Thomas.
Mr Bailie submitted that Ms Puthanpurackal-Thomas had voluntarily absented herself and has not applied for an adjournment. Mr Bailie submitted that the last communication NMC received was an email dated 12 March 2023, where Ms Puthanpurackal-Thomas said that she was living in India. Mr Bailie informed the panel that in addition to the original notice of

hearing, reasonable efforts and attempts had been made to contact Ms Puthanpurackal-Thomas. Mr Bailie, however, submitted that no response had been received and that there had been no engagement by Ms Puthanpurackal-Thomas. He further submitted that as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion. Mr Bailie submitted that there is a strong public interest in proceeding with the case. Given the circumstances, Mr Bailie invited the panel to proceed in the absence of Ms Puthanpurackal-Thomas.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'* as referred to in the case of *R* v *Jones (Anthony William)* (No.2) [2002] UKHL 5.

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

- No application for an adjournment has been made by Ms Puthanpurackal-Thomas;
- Ms Puthanpurackal-Thomas has not engaged with the NMC since an email dated 12 March 2023 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;
- Five witnesses are due to give evidence;

- Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2022;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Ms Puthanpurackal-Thomas in proceeding in her absence. The evidence upon which the NMC relies has been sent to her at her registered email address and she has made response to the allegations in a single email. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Ms Puthanpurackal-Thomas' decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Background

Ms Puthanpurackal-Thomas was referred by her former employer Mid and South Essex NHS Foundation Trust (The Trust). Ms Puthanpurackal-Thomas was employed by the Trust from 21 August 2021 until 13 May 2022, although she was no authorised to work on the ward until 22 October 2021 due to delay with [PRIVATE]. During this period Ms

Puthanpurackal-Thomas joined the NMC register on 28 March 2022. She was dismissed by the Trust on 12 May 2022 after she did not pass her probation period.

The concerns regarding Ms Puthanpurackal-Thomas' case are detailed in the charges below.

Details of charge

1. That you, a registered nurse, between 12 November 2021 and 12 May 2022 did not have the necessary knowledge of English to practise safely and effectively.

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

That you a registered nurse;

1. On 11 February 2022, whilst a pre-registered Band 4 nurse, failed to:

    a. Recognise that a patient was having a seizure.
    b. Escalate the incident by pulling the alarm bell.
    c. Place the patient on their side.

2. On 1 April 2022 failed to check a patient's stool chart to ascertain whether the patient required their laxative medication.

3. On 1 April 2022 when it was identified that the 06.00 medications for a patient had not been signed for, failed to recognise when prompted whether the patient should be given their medication or not.

4. On 26 April 2022 drew up the incorrect dosage of insulin to be administered to a patient.

5. On 26 April 2022 having put one or more tablets into a patient's mouth thereafter;

    a. Pushed them in.
    b. Poured water into their mouth.

6. On 26 April 2022 incorrectly attempted to lift a patient by placing your arm under the patient's arm.

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

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Bailie on behalf of the NMC and the email response to the regulatory concerns by Ms Puthanpurackal-Thomas.

The panel has drawn no adverse inference from the non-attendance of Ms Puthanpurackal-Thomas. The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Senior Registered Nurse at the time of the incident, employed by the Trust.

- Witness 2: Registered Nurse at the time of the incident, employed by the Trust.
- Witness 3: Head of Professional and Commissioned Education, employed by the Trust.
- Witness 4: Junior Sister at the time of the incident, employed by the Trust.
- Witness 5: Senior Professional and Commissioned Education Facilitator, employed by the Trust.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. The panel then considered each of the disputed charges and made the following findings.

Charges in relation to misconduct:

Charge 1a) and 1b)

That you a registered nurse;

1. On 11 February 2022, whilst a pre-registered Band 4 nurse, failed to:

    a) Recognise that a patient was having a seizure.
    b) Escalate the incident by pulling the alarm bell.

These charges are found proved.

In reaching this decision, the panel considered whether Ms Puthanpurackal-Thomas failed to recognise that a patient was having a seizure and then subsequently failed to escalate the incident by pulling the alarm bell and that she had a duty to do so.

The panel had regard to Ms Puthanpurackal-Thomas' response via email dated 11 July 2022, where she stated:

> *'I worked as a supernumerary at the Broomfield hospital, I never worked as a band 5 nurse and so I am not able to make any decisions alone and had to wait for a senior nurse/mentor. In the case of the deteriorating (seizure) patient, I was cleaning the patient as they had a bowel movement. The patient had no seizure when I was cleaning them but the seizure happened suddenly during which time my senior nurse arrived at the scene so she acted quickly. That's why I didn't alert or escalate the matter because it was being taken care of as it happened.'*

The panel considered the evidence of Witness 2 who attended the patient during the incident. Witness 2 said in her evidence that somebody in a supernumerary position could still act in the best interests of a patient when that patient was having a seizure. She stated that it was not the sole responsibility of a person with a registration only to act and raise an alarm. Witness 2 explained that when she entered the room the patient was actively having seizure and that Ms Puthanpurackal-Thomas was still washing her. Witness 2 further explained that if the seizure had happened as soon as she had opened that door, she would have expected Ms Puthanpurackal-Thomas to quickly drop everything putting cleaning paraphernalia aside, and if she were not sure what to do she would have raised it with Witness 2 as soon as she entered the room. In addition, Witness 2 stated that a carer was present with Ms Puthanpurackal-Thomas while she was washing the patient who could also have potentially escalated the situation by raising the alarm bell. However, she informed the panel that the carer was a personal carer to the patient,

based at the patients residence and that they were not a member of Trust staff. Therefore they would not be familiar with Trust procedures and would not necessarily have known how to raise the alarm.

In reviewing the evidence, the panel took particular not of the contemporaneous email sent by Witness 2 on 12 February 2022 (the day after the incident) which was consistent with the account given in her witness statement and in oral evidence. The panel determined that it was reasonable to expect that as a Band 4 pre- registered nurse Ms Puthanpurackal-Thomas should have recognised when the patient was having a seizure and should have escalated the incident immediately. The panel also found the evidence of Witness 2 on this incident more compelling than the explanation given by Ms Puthanpurackal-Thomas in her email dated 11 July 2022 and concluded on the balance of probabilities that the seizure began before Witness 2 return to the room. Therefore, the panel found that it is more likely than not that Ms Puthanpurackal-Thomas failed to recognise that a patient was having a seizure and also failed to escalate the incident by pulling the alarm bell.

Accordingly, charges 1a) and 1b) are found proved, on the balance of probabilities.

Charge 1c)

1. That you a registered nurse;

   On 11 February 2022, whilst a pre-registered Band 4 nurse, failed to:

   c) Place the patient on their side.

This charge is found NOT proved.

In reaching this decision, the panel took into account the oral evidence of Witness 2 that *"[the patient] may have been on her side but I can't say whether she was facing [Ms Puthanpurackal-Thomas] or the carer at that time".*

The panel was not able to identify any evidence presented by the NMC that the patient was not on their side, as alleged in this sub charge. The panel, therefore, determined that the NMC had not provided sufficient evidence to discharge its burden of proof that Ms Puthanpurackal-Thomas had failed to place the patient on their side.

Accordingly, charge 1c) is found not proved.

Charge 2a)

2) On 1 April 2022 failed to check a patient's stool chart to ascertain whether the patient required their laxative medication.

This charge is found proved.

In reaching this decision, the panel considered whether Ms Puthanpurackal-Thomas failed to check a patient's stool chart to ascertain whether the patient required their laxative medication and whether there was a duty on her to do so.

The panel had regard to Ms Puthanpurackal-Thomas's email response to the allegations dated 11 July 2022, where she did not provide any response to this specific charge.

The panel considered the evidence of Witness 1 who was Ms Puthanpurackal-Thomas's Line manager at the time of the incident. In addition to her oral evidence and witness statement the panel had particular regard to the contemporaneous note of the incident she prepared dated 1 April 2022. The panel found her oral and contemporaneous evidence to be consistent and credible. She stated:

‘After we had helped with breakfast she came with me to do the drug round. The first patient had a number of medications. Laxatives was one of them. We went over to the patient and Animol asked the patient if they required their laxative medication. This patient did not have capacity. I asked Animol why she had asked the patient if they required this medication as she had not asked if they required their blood pressure medication? I said that we needed to check the patients stool chart to then make an informed decision for what is best for the patient. She could not understand what I was saying. Her response was to say that the patients blood pressure had been checked. I tried to explain this again but her response was “her blood pressure is fine”.

The patient responded saying they did not need their laxative medication If Animol had been left unsupervised and not given the medication then the patient could have become severely constipated which could have impacted upon their nutrition. The outcome was after checking the stool chart I could see the patient needed the medication so it was administered.’

In reviewing the evidence, the panel took account of the background context provided by Ms Puthanpurackal-Thomas in her email response to the allegations. Ms Puthanpurackal-Thomas stated that she was working in a supernumerary position, she never worked as a Band 5 nurse and that she was not able to make any decisions alone. The panel heard evidence that in practice this meant that Ms Puthanpurackal-Thomas was working in a clinical area under supervision. The panel determined that even working in a supernumerary capacity it was reasonable to expect Ms Puthanpurackal-Thomas to carry out nursing tasks safely and effectively with appropriate support and supervision. On 11 July 2022, Ms Puthanpurackal-Thomas was carrying out a drug round under the supervision of Witness 1 and in that context the panel concluded that she had a duty to carry out an appropriate check.

In light of all the above circumstances, the panel determined that it was provided with sufficiently cogent and credible evidence in order to make a finding that Ms

Puthanpurackal-Thomas failed to check a patient's stool chart to ascertain whether the patient required their laxative medication.

Accordingly, charge 2 is found proved.

Charge 3

3) On 1 April 2022 when it was identified that the 06.00 medications for a patient had not been signed for, failed to recognise when prompted whether the patient should be given their medication or not.

This charge is found proved.

In reaching this decision, the panel considered the oral and contemporaneous evidence from Witness 1, who was Ms Puthanpurackal-Thomas' Line manager at the time of the incident, to be consistent and credible. She stated that:

'…during the medication round we noted that the 06:00 medications were not signed for. The 06:00 medications are given by the night shift staff. But by the time we were doing the next medication round they would have left the shift. I asked Animol what she would do in this situation she said "I will give it". I tried to explain to her that we don't know if the night shift had given it and forgot to sign therefore there was a risk of overdose to the patient. I asked again what she should do and her response was "still give it". I don't recall what the specific medication was but there was a risk of overdose. In this situation it would have been best to not give the medication. There was no patient harm but there could have been if she was left on her own.'

In reviewing the evidence, the panel took account of the background context provided by Ms Puthanpurackal-Thomas in her email response to the allegations. Ms Puthanpurackal-Thomas stated that she was working in a supernumerary position, she never worked as a Band 5 nurse and that she was not able to make any decisions alone.

The panel determined that it was reasonable to expect that even working in a supernumerary capacity Ms Puthanpurackal-Thomas should have been able to understand the importance of spotting unsigned medication and consequently the possibility of giving a double dose of medication. The panel had regard to Ms Puthanpurackal-Thomas's response via dated 11 July 2022, where she did not provide any response to this specific charge.

In light of all the above circumstances, the panel determined that it was provided with sufficiently cogent and credible evidence in order to make a finding that when it was identified that the 06.00 medications for a patient had not been signed for, Ms Puthanpurackal-Thomas failed to recognise when prompted whether the patient should be given their medication or not.

Accordingly, charge 3 is found proved , on the balance of probabilities.

Charge 4

4. On 26 April 2022 drew up the incorrect dosage of insulin to be administered to a patient.

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 4 and Ms Puthanpurackal-Thomas's email response to the allegations.

The panel had regard to Ms Puthanpurackal-Thomas's response via dated 11 July 2022, where she stated:

'I showed two different insulin pens to confirm whether the one I intended for use was correct. Unfortunately my senior nurse didn't recognise my intention and assumed I was off to give the wrong medication which isn't the case.'

The panel considered the evidence of Witness 4 who was Ms Puthanpurackal-Thomas's supervisor at the time of the incident. She stated in her evidence that:

'They had been prescribed two different types of insulin a long acting and a short acting insulin. I do not recall the specific names of the insulin. One of the prescriptions had been crossed off, changed and rewritten by one of the diabetic nurses.

Animol did well in that she read to me the full prescription, the name, the time the units to be given and checked the patients vital pack, which is the electronic device used, it looks a bit like an iPod, it's used to record patient observations. Animol read this correctly and checked the blood sugar["BM"] levels. Animol went out to get insulin out of the patients cupboard and showed me the two flexi pens. A flexi pen is the device used to administer insulin. I asked Animol to check the prescription against the insulin she had, she kept repeating flexi pen, which is correct but the actual vial of insulin was the wrong insulin compared to the prescription. I must have asked her five times to check the insulin in the pen corresponded with the prescription and she kept repeating "flexi pen" and nodded. I reworded the question in different ways but she would just nod and say "flexi pen". She did not verbally explain or communicate her thought process. I said "is it correct, are you happy to give it" and she nodded.

In the end I had to physically show her the name of the drug on insulin pen and the name of the drug on the prescription did not match. She looked at me blankly and said "that's what I gave yesterday". We then went through it and I explained that since then the prescription had changed, she just kept saying "that's what I gave yesterday". There was no concern about the insulin she gave the day before as it was correct at the time.

I recall this patient kept having a high BM and that was why the insulin was changed. If I hadn't been there and stopped Animol there was a risk that the patient's BM levels would continue to be high which could lead to many risks especially with stroke patients. Ideally a BM should stay within the four to seven range. The risks to patients if the BM is too high include effects on the heart, strokes, eyes, nerves and kidneys. This lady had already had a stroke so she was monitored closely. You don't want a patients BM to be too high constantly due to the above risks.

Once we established it was the wrong type of insulin, the correct insulin was not in the Patient's cupboard so we had to go to the drug store to collect it from the fridge where we found it was labelled for this patient and had been ordered the day before.

Animol's response to me was just a blank look and repeated that that was what she had given the day before.

The NMC have informed me that Animol has stated that she was showing me two different insulin pens to confirm whether the one she intended to use was correct and that unfortunately I did not recognise her intention and assumed she was off to give the wrong medication. In a round about way that is correct however it was the wrong pen with the wrong insulin.'

The panel noted that the oral and written evidence of Witness 4 was supported by a contemporaneous email dated 2 May 2022. In her evidence Witness 4 explained that Ms Puthanpurackal-Thomas was unable to comprehend what Witness 4 was saying about the insulin dosage. The panel considered Ms Puthanpurackal-Thomas' evidence that she was trying to confirm which of the Flexi Pens she intended to use. However, the panel noted that Witness 4 had to physically show Ms Puthanpurackal-Thomas the name of the correct drug on the relevant Flexi Pen which was in the drug store rather in the patient's locker. It was Witness 4's evidence that, in response, Ms Puthanpurackal-Thomas just nodded.

Therefore, the panel found Ms Puthanpurackal-Thomas could not comprehend what Witness 4 was trying to explain to her. The panel considered Witness 4's oral and contemporary evidence to be consistent and credible and preferred her account to the incident to that of Ms Puthanpurackal-Thomas.

In light of the above evidence, the panel determined that, on the balance of probabilities, Ms Puthanpurackal-Thomas drew up the incorrect dosage of insulin to be administered to a patient.

Accordingly, the panel found charge 4 proved.

Charge 5

5. On 26 April 2022 having put one or more tablets into a patient's mouth thereafter;

    a) Pushed them in.
    b) Poured water into their mouth.

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 4, where she stated:

'Animol nodded, didn't say anything to the patient and proceeded to put three of her tablets into her mouth and put a cup of water up to her mouth and began to push the tablets in and pour water into her mouth.

The patient reacted by saying no and shook her head saying no multiple times. Again the patient said she did not want water. The patient was spluttering and spat out the three tablets which had begun to dissolve.

I had to step in and said to Animol that the patient had asked for the tablets to be given one at a time. She looked at me then carried on trying to put the three tablets back in the patients mouth and pour water in the patients mouth.

I was concerned about the patient choking and she was becoming quite distressed so I physically had to take the cup out of Animol's hand and say stop, using hand gestures.

The patient was visibly upset and kept saying that she could hold the cup herself, the patient did not have the level of strength to be able to push Animol's hand away from her mouth.

I took over and gave the tablets one by one as requested by the patient.'

The panel noted the oral and written evidence of Witness 4, where she explained that Ms Puthanpurackal-Thomas was unable to comprehend what the patient was saying about how Ms Puthanpurackal-Thomas should give her the tablets. Furthermore, Ms Puthanpurackal-Thomas continued to push the tablets into the patient's mouth even when the patient was shaking her head and saying "no" multiple times. Witness 4 told the panel that Ms Puthanpurackal-Thomas knew that the patient needed help but that the force applied by her was inappropriate, irrespective of whether the patient was being given one, two or three pills. Witness 4 stated "*I genuinely believe that it was a lack of understanding, not a question of malice*". The panel accepted Witness 4's evidence, which it considered to consistent and credible.

The panel had regard to Ms Puthanpurackal-Thomas's email response to the allegations dated 11 July 2022, where she did not provide any response to this specific charge.

In light of the above evidence, the panel determined that, on the balance of probabilities, the panel found both limbs of charge 5 proved.

Charge 6

4. On 26 April 2022 incorrectly attempted to lift a patient by placing your arm under the patient's arm.

This charge is found proved.

In reaching this decision, the panel considered the evidence of Witness 4, where she stated:

'I was working with Animol and this patient was a larger lady and had told us that she was feeling quite stiff as she had been in bed all night. The occupational therapist assessment said to use a sarasteady. It's quite hard to explain what a sarasteady is, the best way I can describe it is a trolley on wheels, a patient sits at the end of the bed and it is wheeled in front of them, it has a cushioned bar for their knees/shins and it assists them to stand. The patient puts their feet on the foot plate and the patient then uses the sarasteady to pull themselves up using their own body strength to stand. We could then help by maybe putting our arm round their back but we would never pull them or try to lift them.

Animol tried to physically lift this patient, she put her arm under the patients arm and sharply pulled up. The patient started to shout "ow, ow, ow, ow " but Animol ignored this and continued to do this until the patient pushed her off and began to cry. I then asked Animol to step out to get something and one of the physio therapists was there so they helped this patient.

Animol was wrong for what she did as there was a risk of hurting herself, the patient and me. You never put your arm under a patients, it could case back and shoulder injuries to us, some patients can grab you [this patient was not at risk of that]. There was no actual injury to the patient but there was pain and a risk of dislocating a shoulder.'

The panel noted Witness 4's detailed evidence, where she clearly explained that Ms Puthanpurackal-Thomas ignored the patient's discomfort and continued pulling the patient by putting her arm under the patient's arm. She also highlighted the risks of not adhering to the manual handling guideline-Witness 4 said that this could cause dislocation and pain and confirmed that Ms Puthanpurackal-Thomas had undergone the relevant training. Witness 4 said that such handling presented risks to both patient safety and staff safety. The panel considered Witness 4's oral and contemporary evidence to be consistent and credible.

The panel had regard to Ms Puthanpurackal-Thomas' email response to the allegations dated 11 July 2022, where she did not provide any response to this specific charge.

In light of the above evidence, the panel determined that, on the balance of probabilities, Ms Puthanpurackal-Thomas incorrectly attempted to lift a patient by placing her arm under the patient's arm.

Accordingly, the panel found charge 6 proved.

Charge in relation to lack of knowledge of English:

Charge 1

1. That you, a registered nurse, between 12 November 2021 and 12 May 2022 did not have the necessary knowledge of English to practise safely and effectively.

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

This charge is found proved.

In reaching this decision, the panel took into account the NMC guidance headed “Not having the necessary knowledge of English” which states, *“In cases about a nurse, midwife or nursing associate’s knowledge of English, decision makers will consider language testing results as the primary measure of whether the nurse, midwife or nursing associate has the necessary knowledge of English to practise safely. Both case examiners deciding whether a nurse, midwife or nursing associate has a case to answer, and panel members of the Fitness to Practise Committee, deciding whether the facts at a final hearing are proved, will base their decision on test results. A properly signed certificate from the test provider will be conclusive evidence of the test result the nurse, midwife or nursing associate achieved.”* The guidance goes on to say, *“In all cases, decision makers should exercise their judgment and balance the individual features of the case and any actual harm or risk of harm to patients.”*

The panel considered the fact that Ms Puthanpurackal-Thomas passed her IELTS (International English Language Testing System) exams on 22 January 2021 and OSCE (part-2 of the NMC Test of Competence) exam on 16 March 2022 and had obtained her NMC PIN. However, all the witnesses in this case refer to the Ms Puthanpurackal-Thomas’ difficulty with communication, particularly in understanding of English during the incidents that had occurred. The panel balanced the fact that Ms Puthanpurackal-Thomas had passed IELTS and OSCE and the evidence provided to it that Ms Puthanpurackal-Thomas’ partial command of English when working in a clinical setting meant that she was not able to practise safely and effectively as a Registered Nurse.

The panel had sight of Ms Puthanpurackal-Thomas’ failed probationary report which provided thorough detail of her struggles in communication. In addition, the panel considered its decision for the proven misconduct charges.

The panel had regard to Ms Puthanpurackal-Thomas’s response via email dated 11 July 2022, where she stated:

‘I admit I struggled with the accent since it is my first time away from home in a new country.’

The panel had regard to the evidence of Witness 1, where she stated:

‘… Concerns had been raised in relation to her communication skills specifically her lack of understanding of what is being spoken to her. I explained to her that some staff members felt she lacked understanding of English and that when she struggled to understand what was being said she reverted back to her mother tongue to ask fellow colleagues to explain to her.

The trouble I had was she couldn’t understand anything, our conversations were very brief and limited. As much as I would try to get her to understand it was not safe for her to be working on the Ward so I had to send her home. I said to her she needed to go home but she did not understand. I had to literally show her her bag and coat and walk her to the door for her to understand that she was going home.’

The panel had regard to the evidence of Witness 2, where she stated:

‘...I think the main issue was her communication. For example I asked her to go and get a towel and she came back with a wheelchair. This rang some alarm bells for me. As a Ward we tried to give her the opportunity to understand and learn but nothing really worked.’

The panel had regard to the evidence of Witness 3, where she stated:

‘I arranged for an independent team, the Practice Education Team whom I manage, to go in and make an assessment to see if she was safe or not. The first person who went in was … who was part of the OSCE team. She went in on 22 November 2021 to see her and work alongside her, she found there were

communication problems. Her technical ability was competent but she could not converse with patients very well and reverted back to her first language when trying to take instruction from other staff.'

'…All three reported back that communication was the issue and she did not understand instructions. It was as if she had remembered a set of answers, stock answers and she would say these in response to questions that were irrelevant. There were concerns regarding communication and understanding and the ability to put into action what needed to be done without instruction first.'

The panel had regard to the evidence of Witness 4, where she stated:

'I don't think there was any malice in anything Animol did, I think she genuinely just didn't understand.'

The panel had regard to the evidence of Witness 5, where she stated:

'I asked her questions of how the registrant is getting on with their shifts. I do remember that it took time for the registrant to respond. During sometimes in the conversation, I remember repeating what I was asking. Some of the responses that the registrant also gave back to me were not appropriate to the questions I asked. So that's why I reported back to [Witness 3] *that the registrant has communication problems.*

The main thing I felt was a concern after my meeting with the registrant was their level of understanding and communicating in English. I felt there was lack of confidence in the way the registrant was communicating. This maybe because the registrant didn't clearly understand what I was asking.'

The panel considered the proven misconduct charges and the evidence from the five witnesses, which clearly indicated that Ms Puthanpurackal-Thomas had difficulties in communication. The witnesses stated that on occassions, they felt Ms Puthanpurackal-

Thomas was not comprehending what they were saying and was giving answers to completely different questions which had not been asked.

Although the panel noted that Ms Puthanpurackal-Thomas passed the requisite exams, it was satisfied that she struggled to comprehend and communicate effectively and safely with patients and colleagues in a clinical setting.

The panel determined that, based on the evidence before it, it was more likely than not, that Ms Puthanpurackal-Thomas did not have the necessary knowledge of English to practise safely and effectively.

Accordingly, the panel found charge 1 (in relation to lack of knowledge of English Language) proved.

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 in the second tranche of charges1-6 amount to misconduct, if so, whether Ms Puthanpurackal-Thomas' fitness to practise is currently impaired on the basis of misconduct. It also went on to consider whether Ms Puthanpurackal-Thomas' fitness to practise is currently as a result of its finding of a lack of knowledge of English. 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.

Submissions on misconduct and impairment

Mr Bailie referred the panel to the case of *Roylance v General Medical Council (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.'*

Mr Bailie also referred the panel to the 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code) in making its decision.
Mr Bailie reminded the panel that misconduct, in the regulatory context, must amount to serious misconduct. He identified several breaches of the Code to the panel and submitted that whether Ms Puthanpurackal-Thomas' actions amounted to misconduct.

Mr Bailie submitted that there were serious failures to provide the appropriate level of care to patients because of an inability to understand verbal and written communications. In respect of written communications, he submitted that the insulin incident demonstrated that, Ms Puthanpurackal-Thomas' failure to read the prescription accurately. In respect of verbal communications, there were multiple incidents where her colleagues reported her lack of written and verbal language comprehension.

Mr Bailie submitted that Ms Puthanpurackal-Thomas' actions cumulatively fell short of the conduct expected of a registered nurse. He therefore invited the panel to take the view that the facts found proved amount to misconduct.

Mr Bailie moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. He referred the panel to the cases of *Cohen v GMC* [2015] EWHC 581 (Admin) and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). He submitted that the first three limbs of Dame Janet Smith's test as set out in the Fifth Report from Shipman were engaged by Ms Puthanpurackal-Thomas actions.

Mr Bailie submitted that the central concerns in this case were her lack of comprehension and inability to communicate in English Language and in that respect the panel should find Ms Puthanpurackal-Thomas impaired on the grounds of public protection and public interest.

In relation to insight and strengthening of practice, Mr Bailie submitted that Ms Puthanpurackal-Thomas has not demonstrated any insight by way of any reflective piece or in her email response to the regulatory concerns. Neither has she provided details of any steps taken to improve her skills by means of training or professional development. Therefore, Mr Bailie submitted that there is a risk of repetition.

Mr Bailie submitted that nurses occupy a position of trust in our society and reasonable members of the public, would be concerned to learn that a nurse whose actions amounted to serious misconduct was allowed to practise unrestricted.

Mr Bailie submitted that given the seriousness of this case and the failings identified, the panel may conclude in the circumstances of this case, a finding of impairment on the grounds of public protection and also in the wider public interest is required, and that your fitness to practise is currently impaired.

Decision and reasons on misconduct

The panel adopted a two-stage process in its consideration in relation to misconduct charges. 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, Ms Puthanpurackal-Thomas' fitness to practise is currently impaired as a result of that misconduct.

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (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.'

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 Ms Puthanpurackal-Thomas' actions did fall significantly short of the standards expected of a registered nurse, and that Ms Puthanpurackal-Thomas' actions amounted to a breach of the Code. Specifically:

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay, and

3 ***Make sure that people's physical, social and psychological needs are assessed and responded to***

7.5 be able to communicate clearly and effectively in English.

13 ***Recognise and work within the limits of your competence***

15.2 arrange, wherever possible, for emergency care to be accessed and provided promptly

16 ***Act without delay if you believe that there is a risk to patient safety or public protection***

18 ***Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations***

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. It had regard to the case of *Roylance v General Medical Council* 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.'*

The panel considered each of the charges found proved in turn and made a decision as to whether misconduct was established in relation to each charge. The panel determined that Ms Puthanpurackal-Thomas' actions in each of the individual charges did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct. With respect to charges 1, 2, 3 and 4, the panel determined Ms Puthanpurackal-Thomas' failures had the potential to cause significant harm to patients. With respect to charges 5 and 6 there was evidence of actual patient harm as patients had complained about pain and discomfort. The panel determined that both individually and collectively Ms Puthanpurackal-Thomas' conduct in the charges found proved breached fundamental tenets of the code and left vulnerable patients at risk of harm. Ms Puthanpurackal-Thomas' conduct was serious and would be considered unacceptable by fellow practitioners.

The panel therefore determined that Ms Puthanpurackal-Thomas' conduct fell significantly short of the standards expected of a registered nurse and is sufficiently serious to amount to misconduct.

Decision and reasons on impairment for the misconduct charges

The panel next went on to decide if as a result of the misconduct, Ms Puthanpurackal-Thomas' 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.'*

Registered 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) *....'*

The panel considered that limbs a, b and c were engaged in the past and in relation to the future.

The panel found that in relation to charge 1a), 1b), 2, 3 and 4, patients were put at risk of harm as a result of Ms Puthanpurackal-Thomas' misconduct. The panel further found that actual harm was caused to patients with regards to charges 4 and 5. Therefore, Ms Puthanpurackal-Thomas' misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel is aware that this is a forward-looking exercise and accordingly, it went on to consider whether Ms Puthanpurackal-Thomas' misconduct was remediable and whether it had been remedied. The panel then considered the factors set out in the case of *Cohen v GMC* [2007] EWHC 581 (Admin).

The panel went on to consider whether Ms Puthanpurackal-Thomas remains likely to act in a way that would put patients at risk of harm, would bring the profession into disrepute and breach the fundamental tenets of the profession in the future. The panel determined that the conduct found proved was remediable. It went on to consider whether there was any evidence of insight and remediation.

In relation to insight, the panel heard evidence of significant attempts to support Ms Puthanpurackal-Thomas during her employment at the Trust and that she had not appeared to show an understanding of gravity of the incidents or her communication issues. The panel heard from Witness 4 that extensive support was offered to her but was not always accepted. It took into account Ms Puthanpurackal-Thomas' email dated 11 July 2022 and 12 March 2023. The panel found that Ms Puthanpurackal-Thomas did not demonstrate any insight into her conduct. It noted that Ms Puthanpurackal-Thomas had not provided any evidence of training nor had shown any insight regarding her errors. The panel determined that there has not been a period of safe practice where she could demonstrate remediation as she had not practised as a nurse in the UK since 2022. Similarly, the panel also determined that there is no current evidence to show whether she had strengthened her practice. On the information provided to the panel, Ms Puthanpurackal-Thomas had not provided any written reflection for its consideration. It considered that patients were put at risk of harm as a result of Ms Puthanpurackal-Thomas' misconduct and there is a real risk of repetition of her actions due to her lack of remediation. Therefore, the panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel considered that Ms Puthanpurackal-Thomas' had not fully appreciated the seriousness of her actions and had not demonstrated an understanding as to the impact her misconduct had on patients, colleagues, and public confidence in the nursing profession.

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 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 fully informed member of the public would be concerned if Ms Puthanpurackal-Thomas was allowed to continue to practise as a nurse without restriction. Accordingly, 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 Ms Puthanpurackal-Thomas' fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Ms Puthanpurackal-Thomas fitness to practise is currently impaired on both public protection and public interest grounds.

Decision and reasons on impairment on lack of knowledge of English

The panel next went on to decide if as a result of Ms Puthanpurackal-Thomas' lack of knowledge of English, her fitness to practise is currently impaired.

In relation to the *Grant* test, the panel considered that limbs a, b and c were engaged in the past and in relation to the future. The panel found that patients were put at risk and in some incidents, patients were caused physical and emotional harm as a result of Ms Puthanpurackal-Thomas' lack of knowledge of English. Despite support from her employer, Ms Puthanpurackal-Thomas continued to struggle to communicate in English. Ms Puthanpurackal-Thomas' lack of knowledge of English had breached fundamental tenets of the nursing profession by failing to be able to communicate safely and effectively and therefore brought its reputation into disrepute.

The panel was satisfied that a lack of knowledge of English is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Ms Puthanpurackal-Thomas' has done so.

The panel noted that there is nothing to indicate that Ms Puthanpurackal-Thomas has now remedied this deficiency as Ms Puthanpurackal-Thomas has not engaged with the NMC since March 2023. In these circumstances, the panel has concluded that Ms Puthanpurackal-Thomas' lack of knowledge of English is such that it would put patients at unwarranted risk of harm. Moreover, it is liable to bring the profession into disrepute. Ms Puthanpurackal-Thomas' has shown no indication that she plans to undertake any training or assessment to show strengthening of her communication skills nor has she provided any evidence of insight. As a consequence, the panel cannot be satisfied that her knowledge of English is now at the necessary standard to practise as a nurse safely. 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 fully informed member of the public would be concerned if they knew that a nurse who has a lack of knowledge of English to practise safely and effectively was allowed to continue to practise as a nurse without restriction. Accordingly, 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 Ms Puthanpurackal-Thomas' fitness to practise is currently impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Ms Puthanpurackal-Thomas' fitness to practise is currently impaired due to both her misconduct and lack of knowledge of English on both public protection and public interests grounds.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months, with a review of the order before its expiry. The effect of this order is that the NMC register will show that Ms Puthanpurackal-Thomas' registration has been suspended.

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

The panel accepted the advice of the legal assessor which included reference to the case of *Raschid and Fatnani v GMC* [2007] 1 WLR 1460.

Submissions on sanction

Mr Bailie submitted that the appropriate and proportionate sanction in this case is a suspension for a period of 12 months, in light of the panel's finding of misconduct and current impairment. He then outlined what the NMC considered to be the aggravating and mitigating features of this case.

Mr Bailie invited the panel to consider the sanctions in ascending order, and to have regard to the public protection and public interest issues in deciding on the most appropriate and proportionate sanction. He submitted that taking no action or imposing a caution order would not be appropriate, given the seriousness of Ms Puthanpurackal-

Thomas misconduct and the risk of repetition identified. Further, Ms Puthanpurackal-Thomas has demonstrated a lack of insight and knowledge of English.

Regarding a conditions of practice order, Mr Bailie submitted that this order would be inappropriate, particularly given that these charges occurred when Ms Puthanpurackal-Thomas was working in a supernumerary capacity under conditions imposed by the Trust. He submitted that Ms Puthanpurackal-Thomas is currently in India and not working in the UK. Further, he submitted that it would be necessary for Ms Puthanpurackal-Thomas to demonstrate improved and comprehensive knowledge of the English language due to the concerns in this case. He submitted that any conditions formulated that would adequately address the concerns relating to Ms Puthanpurackal-Thomas' lack of knowledge of English would be tantamount to a suspension order. He submitted that for these reasons, a conditions of practice order would be unworkable.

Mr Bailie submitted that a suspension order for a period of 12 months would adequately protect the public, satisfy the public interest and maintain public confidence in the profession. He submitted that this period of suspension would also afford Ms Puthanpurackal-Thomas time to demonstrate insight and steps taken to strengthen her practice, improve her knowledge of English language and to engage with these NMC proceedings.

Mr Bailie reminded the panel that a striking-off order is available to it in respect of the charges relating to misconduct only. He submitted that a striking- off order would be disproportionate and inappropriate.

Decision and reasons on sanction

Having found Ms Puthanpurackal-Thomas' 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 considered the following to be aggravating features in this case:

- Actual harm caused to patients arising from charges 4) and 5) and conduct that put patients at risk of harm in charges 1), 3) and 4); and
- Ms Puthanpurackal-Thomas has demonstrated a lack of insight into her failings and failed to remediate the issues regarding her lack of knowledge of English over a significant period of time.

The panel considered the following to be mitigating features in this case:

- Ms Puthanpurackal-Thomas provided some information regarding [PRIVATE] she was facing at the time of the incidents; and
- Ms Puthanpurackal-Thomas was a new overseas nurse at the time of the incidents, facing language and cultural challenges during a period of significant adjustment.

The panel first considered whether to take no action but decided that this would be inappropriate in view of its conclusion that there are public protection and public interest issues in this case.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public interest and protection issues identified, an order that does not restrict Ms Puthanpurackal-Thomas' 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 Ms Puthanpurackal-Thomas' failings were not at the lower end of the spectrum and that a caution order would be inappropriate in view of the risk of repetition identified.

The panel next considered whether placing conditions of practice on Ms Puthanpurackal-Thomas' registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel took into account the SG, which sets out when conditions may be appropriate in the following cases:

- *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;*
- *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 considered that there was no evidence of harmful deep-seated personality or attitudinal problems in this case, as the evidence provided to the panel was that there was no malice in Ms Puthanpurackal-Thomas' failings. It noted that that are identifiable areas of Ms Puthanpurackal-Thomas' clinical practice in need of retraining and assessment. Notwithstanding this, the panel considered that there was some evidence of general incompetence and that Ms Puthanpurackal-Thomas' lack of knowledge of English was such, that when conditions were previously imposed by the Trust failures still occurred. The panel had no evidence before it to suggest that Ms Puthanpurackal-Thomas would demonstrate a willingness to retraining due to her current lack of engagement. The panel could not be satisfied that patients would be protected during the period that a condition of practice would be in force, given that patients suffered actual harm and were put at risk of harm whilst Ms Puthanpurackal-Thomas was working on a supernumerary basis previously. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Ms Puthanpurackal-Thomas' lack of knowledge of English. The panel therefore concluded that a conditions of practice order be unworkable and would not adequately protect the public or satisfy the public interest.

The panel next considered imposing a suspension order. The panel was of the view that a suspension order would allow Ms Puthanpurackal-Thomas to fully reflect and demonstrate insight into her failings, take steps to strengthen her practice and demonstrate sufficient comprehension and knowledge of English. Further, it would afford Ms Puthanpurackal-Thomas time to engage with these proceedings. The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. The panel concluded that a suspension order is the appropriate and proportionate sanction, which would continue to both protect the public and satisfy the wider public interest.

Balancing all of these factors, the panel determined to impose a suspension order for a period of 12 months, with a review before the expiry of the order. The panel noted the hardship such an order will inevitably cause Ms Puthanpurackal-Thomas. 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.

It did go on to consider a striking-off order. The panel was mindful that a striking-off order was not an available option to it in relation to Ms Puthanpurackal-Thomas' current impairment by reason of her lack of knowledge of English. The panel considered the misconduct found proved and taking account of all the information before it, and of the mitigation provided, the panel concluded that a striking-off order would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Ms Puthanpurackal-Thomas' case to impose a striking-off order.

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 further panel may be assisted by:

- Evidence of improved knowledge of English language, including; any up to date IELTS test results and further evidence of continued learning and practice in English to show improved comprehension and communication;
- Evidence of insight and remediation;
- A reflective piece regarding the seriousness of the misconduct found proved and the importance of comprehending and communicating effectively in English; and
- Ms Puthanpurackal-Thomas' engagement with the NMC and attendance at any further review hearings.

Interim order

As the striking-off 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 Ms Puthanpurackal-Thomas' own interest until the striking-off sanction takes effect.

Submissions on interim order

Mr Bailie submitted that an interim suspension order is necessary for the protection of the public and is otherwise in the public interest. He relied on the panel's earlier findings to support that submission. He therefore invited the panel to impose an interim suspension order to cover the 28-day appeal period and for any potential appeal to be lodged and considered.

The panel accepted the advice of the legal assessor.

Decision and reasons on interim order

Having regard to the findings in this case, the panel did consider that an interim order is necessary to protect the public and is otherwise in the public interest. Having regard to the seriousness of the misconduct in this case and the reasoning for its decision to impose a suspension order, the panel considered that to not impose a suspension order would be inconsistent with its previous findings.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order.

The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28-day appeal period. If no appeal is made, then the interim suspension order will be replaced by the suspension order 28 days after Ms Puthanpurackal-Thomas is sent the decision of this hearing in writing.

That concludes this determination.

This will be confirmed to Ms Puthanpurackal-Thomas in writing.