

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

**Substantive Order Review Hearing
Tuesday 17 September 2024**

Virtual Hearing

Name of Registrant:	Parveen Fatima
NMC PIN	05F0359O
Part(s) of the register:	RN1: Adult Nurse – Sub Part 1 (June 2005)
Relevant Location:	Lancashire
Type of case:	Lack of competence
Panel members:	Rachel Ellis (Chair, Lay member) Gill Edelman (Lay member) Simone Thorn Heathcock (Registrant member)
Legal Assessor:	Charlene Bernard
Hearings Coordinator:	Antonnea Johnson
Nursing and Midwifery Council:	Represented by Lindsey McFarlane, Case Presenter
Mrs Fatima :	Not present and not represented
Order being reviewed:	Suspension order (6 months)
Fitness to practise:	Impaired
Outcome:	Striking-Off order to come into effect on 25 October 2024 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Fatima was not in attendance and that the Notice of Hearing had been sent to Mrs Fatima's registered email address by secure email on 16 August 2024 and to Mrs Fatima's registered home address by recorded delivery on 19 August 2024.

Ms McFarlane, 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 substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Fatima's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Mrs Fatima

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

Ms McFarlane submitted that there had been no engagement at all by Mrs Fatima with the NMC in relation to these proceedings and she had voluntarily absented herself from this review hearing. As a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

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

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

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

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 25 October 2024 in accordance with Article 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 25 March 2022. This was reviewed on 21 April 2023 where the panel extended the suspension order for a further period of 12 months. The order was again reviewed on 4 March 2024, when the suspension order was extended again for a further six months.

The current order is due to expire at the end of 25 October 2024.

The panel is reviewing the order pursuant to Article 30(1)/30(2) of the Order.

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

'That you, a registered nurse, whilst employed by Northwood Nursing and Residential Care Home ('the Home') between June and July 2020:

1. Failed to demonstrate the standards of knowledge, skill and judgment in medication administration and/or management required to practise without supervision as a registered nurse, in that you:

a) On 22 June 2020:

i. having administered medication to residents, failed to sign the residents' MAR charts.

Page 5 of 10

ii. Failed to administer levetiracetam to a resident.

b) On 29 June 2020:

i. ...

ii. ...

iii. ...

iv. Were unable to correctly calculate the amount of medication required by Resident A.

v. Were unable to draw up the correct amount of medication required by Resident A.

vi. ...

vii. ...

viii. ...

ix. ...

x. ...

xi. ...

xii. ...

xiii. ...

xiv. ...

c) On 1 July 2020:

i. ...

ii. Inaccurately signed Resident G's MAR chart to indicate that you had

administered the resident's lunchtime medication when you had administered the resident's morning medication.

iii. Indicated that you would not administer medication to Resident H on account of their being asleep when this was a clinically inappropriate decision given the nature of the medication prescribed to Resident H.

iv. ...

v. ...

vi. Were unable to correctly calculate the amount of medication required by Resident A.

vii. Were unable to draw up the correct amount of medication required by Resident A.

viii. ...'

The second reviewing panel determined the following with regard to impairment:

The panel considered carefully whether Mrs Fatima's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC 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 had regard to all of the documentation before it.

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 Mrs Fatima's fitness to practise remains impaired. In its consideration of whether Mrs Fatima has taken steps to strengthen her practice, the panel took into account that there is no new information before it to

suggest that she has undertaken any training or work to strengthen her practice. The panel also noted that there is no evidence from Mrs Fatima demonstrating insight or reflection on her actions.

In light of this, the panel determined that Mrs Fatima is still liable to repeat matters of the kind found proved as there has been no material change in circumstances so the risks identified by the original panel remain. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection. The panel bore 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 Mrs Fatima's fitness to practise remains impaired.'

The second reviewing panel determined the following with regard to sanction:

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Fatima's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Mrs Fatima's lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Mrs Fatima's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel also took into account that the Mrs Fatima has not engaged with the NMC since 16 September 2020 thus it would not be able to formulate conditions of practice that would adequately address the concerns relating to Mrs Fatima's lack of competence without her involvement.

The panel considered the imposition of a further period of suspension. It determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest given the seriousness of the competency issues in this case, and that there has been no material change since the last review.

Accordingly, the panel determined to impose a suspension order for the period of six months which would provide Mrs Fatima with an opportunity to engage with the NMC, provide evidence that she has taken steps to address the concerns regarding her lack of competence, and provide work testimonials. It considered this to be the most appropriate and proportionate sanction available. If Mrs Fatima continues not to engage, the next reviewing panel will have a full range of sanctions available to it. This suspension order will take effect upon the expiry of the current suspension order, namely the end of 25 April 2024 in accordance with Article 30(1).

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

Any future panel reviewing this case would be assisted by:

- Mrs Fatima's engagement with the NMC.*
- Evidence of work in the care sector.*
- Testimonials from a line manager or supervisor that detail her current work practices.*

- *Any evidence of courses or training undertaken to maintain or improve her nursing knowledge and skills.*
- *A reflective piece demonstrating her insight into the concerns raised.*
- *Statement detailing her future intentions about practising as a registered nurse or otherwise.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Fatima'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 ability to practise kindly, safely and professionally. 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 other documentation showing attempts made by the NMC to contact Mrs Fatima to no avail. It has taken account of the submissions made by Ms McFarlane on behalf of the NMC. She submitted that Mrs Fatima had had no engagement with the NMC since September 2020 at which point she had stated in communications that she was not seeking work and wanted to focus on her health and wellbeing.

Ms McFarlane submitted that Mrs Fatima had taken no steps to satisfy the previous panel's recommendations.

Ms McFarlane submitted that on the account of Mrs Fatima's lack of engagement and the absence of any new evidence, her fitness to practise remains impaired. Ms McFarlane submitted to the panel that Mrs Fatima had not given any update as regards her intention to return to practising as a nurse in the future, and submitted there was no evidence of either an increased or decreased risk of repetition and harm to patients.

Ms McFarlane invited the panel to consider that Mrs Fatima's fitness to practise is still currently impaired on both public protection and public interest grounds due to a lack of

evidence of her insight into her failings and steps to strengthen her practice. Therefore concerns pertaining to risk of patient safety remain.

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 Mrs Fatima's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Fatima had not demonstrated any insight. At this hearing the panel had no additional information from Mrs Fatima as regards insight or her intention to return to practising as a registered nurse in future.

In its consideration of whether Mrs Fatima has taken steps to strengthen her practice, the panel took into account that Mrs Fatima had not provided any evidence of insight into the concerns relating to the charges found proved. The panel noted there was no evidence of Mrs Fatima undertaking training courses, providing reflective pieces or providing work testimonials. The panel considered that Mrs Fatima had not supplied any information of her current employment or any evidence of experience working in a caring capacity. The panel noted that in light of Mrs Fatima's disengagement with the NMC over a four year period, there was reason to believe that there is an increased risk to patient safety because of the significant time that had passed since the original charges and the lack of any evidence that steps had been taken to improve or maintain her practice.

In light of this, this panel determined that Mrs Fatima is 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 Mrs Fatima's fitness to practise remains impaired.

Decision and reasons on sanction

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. It had found that Mrs Fatima had failed to demonstrate any insight into the seriousness of the concerns and that Mrs Fatima had failed to strengthen her nursing practice. The panel therefore determined that it would neither protect the public nor be in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Fatima's nursing 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 this case 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 a caution order would neither protect the public nor be in the public interest.

The panel next considered whether a conditions of practice order on Mrs Fatima'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 noted that Mrs Fatima had failed to engage with the NMC since September 2020, a period of four years, and also bore in mind Mrs Fatima's indication she had no plans to return to work. The panel noted that Mrs Fatima had stated that she had resigned from her most recent known post, stating in communications on 16 September 2020:

“ I am currently unemployed and I am not looking for work. I am focused on working on my health and well-being and resting at home at the moment.

I don't plan on seeking further work at the moment as it all depends on my health and well-being.”

The panel therefore concluded that there was no scope to implement workable conditions of practice.

The panel also noted that at the time of the substantive hearing where the charges were found proved, Mrs Fatima had worked under supervised conditions at her last known employer, but concerns relating to her practice remained. The panel contemplated the evidence and concluded there was an increased risk to patients because of Mrs Fatima's lack of attempts to rectify the issues at the time they occurred, her rejection of support and her continued lack of engagement, with no evidence of steps she has taken to strengthen her practice. The panel concluded that a conditions of practice order was not workable or appropriate in these circumstances.

The panel next considered imposing a further suspension order. It took into account that Mrs Fatima had failed to demonstrate any insight into the severity and impact of her actions on the patients, the nursing profession and the wider public. The panel noted that Mrs Fatima had failed to demonstrate evidence of sufficient steps to strengthen her nursing practice and that her conduct heightens the risk of repetition.

The panel considered that Mrs Fatima had now been suspended for two and a half years in order to allow her to re-engage with the NMC and demonstrate sufficient steps to strengthen her nursing practice and reflect on her failings, but Mrs Fatima had failed to engage with the process. The panel also considered a further period of suspension not to be in the best interests of the registrant. In this regard, the panel determined that a further period of suspension would not serve any useful purpose in the circumstances as it would neither protect the public nor satisfy the public interest consideration in this case.

The panel therefore considered a striking-off order. It noted that at the last review hearing, the reviewing panel had imposed a further suspension order for a period of six months. That panel also provided Mrs Fatima with comprehensive guidance as to the steps required to strengthen her practice and to provide insight into her failings. It was also made clear that at any future review hearing, a striking-off order could be an available sanction.

The panel had regard to The NMC Guidance REV-3h: Removal from the register when there is a substantive order in place, which states:

'There is a persuasive burden on the professional at a substantive order review to demonstrate that they have fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairment.'

The guidance also states that:

Cases where striking off is likely to be appropriate include when:

- 1.1 the professional has shown limited engagement and/or insight,
- 1.2
- 1.3 the professional has otherwise made no or negligible progress towards addressing issues with their fitness to practise.

In today's hearing, the panel concluded that Mrs Fatima's failure to engage with the NMC, demonstrate any insight into her failings, take any steps to strengthen her nursing practice over the past four years, coupled with the fundamental and serious nature of the charges meant that consideration of striking off was inevitable.

Consequently, the panel concluded that the only sanction that would adequately protect the public and serve the public interest is a striking-off order. The panel therefore directs the Registrar to strike Mrs Fatima's name off the NMC register.

This striking-off order will take effect upon the expiry of the current suspension order, namely, the end of 25 October 2024 in accordance with Article 30(1).

This decision will be confirmed to Mrs Fatima in writing.

That concludes this determination.