

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

**Substantive Order Review Hearing
Monday, 2 September 2024**

Virtual Hearing

Name of Registrant: Sara Ford

NMC PIN 17G2144E

Part(s) of the register: Registered Nurse – Sub Part 1
RNA: Adult Nurse, Level 1 (25 October 2018)

Relevant Location: Somerset

Type of case: Lack of competence

Panel members: Sophie Lomas (Chair, lay member)
Sharon Peat (Registrant member)
Suzanna Jacoby (Lay member)

Legal Assessor: Nina Ellin KC

Hearings Coordinator: Clara Federizo

Nursing and Midwifery Council: Represented by James Cox, case presenter

Mrs Ford: Not present and represented by Khaled Hussain-Dupré

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

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely 31 October 2024**

Decision and reasons on service of Notice of Hearing and proceeding in absence

The panel was informed at the start of this hearing that Mrs Ford was not in attendance and that the Notice of Hearing had been sent to Mrs Ford's registered email address by secure email on 2 August 2024.

Further, the panel noted that Mrs Ford is represented at this hearing by her legal counsel, Mr Hussain-Dupré, who submitted on her behalf that the Notice and NMC bundles have been received. He informed the panel that he spoke to Mrs Ford last Friday 30 August 2024, and received instructions. He confirmed that no adjournment was requested.

Mr Cox, 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). He also submitted, regarding proceeding in absence, that Mrs Ford had voluntarily absented herself.

The panel accepted the advice of the legal assessor.

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

The panel also decided to proceed in the absence of Mrs Ford. 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 Ford;
- Mrs Ford is represented and has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- 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.

Decision and reasons on review of the substantive order

The panel decided to allow the order to lapse upon expiry in accordance with Article 30 (1), namely 31 October 2024.

This is the second review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 3 October 2023. On 1 May 2024, the conditions of practice order was confirmed at an early review.

The current order is due to expire at the end of 31 October 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, between 14 May 2019 and 20 August 2019 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse.

1. On the following dates you failed to sign the MAR chart in respect of Patient A, once you had administered an analgesia patch:

a. ...

b. ...

c. ...

d. 13 June 2019.

2. ...

3. On 5 August 2019:

a. Once you had administered Novomix to Patient B, you recorded the incorrect date on the patient records, namely 5 July instead of 5 August;

b. Once you had changed a nephrostomy bag for Patient C, you recorded the incorrect date on the patient records, namely 5 September, instead of 5 August.

4. On 5 August 2019 you:

a. Attempted to change an analgesia patch in respect of Patient D, which was not due to be changed until the following day;

b. ...

c. ...

d. You failed to re-arrange the appointment for Patient D to 6 August 2019.

5. On or around 14 August 2019 you failed to complete the following on an unknown patient:

a. Observations and/or

b. Waterlow, and/or

c. MUST, and/or

d. Pressure areas check, and/or

e. Care plan review.

6. On 14 August 2019 you failed to adhere to infection control practices, in that you:

a. Did not wash your hands before and/or after providing patient care;

b. Did not wash your hands after throwing away soiled measuring paper.

7. Between 29 April – 20 August 2019 you failed to carry out a clinical assessment when visiting an unknown patient, before attempting to handle the syringe driver.

8. Between 29 April – 20 August 2019 you:

a. ...

b. Did not know the bladder wash out procedure when you attended Eastleigh Care home.

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

That you a registered nurse:

9. ...

10. ...

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

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

'The panel considered that the original panel in its written determination set out that whilst it had before it a reflective piece from you, that panel had no evidence before it that you had taken steps to strengthen your practice in light of the regulatory concerns. At this hearing, the panel considered that whilst you have referred the panel to positive testimonials in relation to your current employment as a healthcare assistant, there is no substantive evidence before it to show that you have taken steps to strengthen your practice since the original substantive hearing, nor were there any further reflections provided to this panel.

The panel further noted that it has no evidence of any insight from you, in particular to the impact of patients, relatives and colleagues on your lack of competence. The panel took into account that you had called for an early review of the order, and that this was provided to you by the NMC on short notice, but when asked about insight and steps taken during your submissions, you did not provide the panel with any updated information other than what you had provided to the last panel at the original hearing.

The panel noted that you are not currently practising as a nurse and are therefore unable to demonstrate compliance with the conditions of practice

order. The panel took into account that whilst it had heard information that you are practising in a healthcare setting, it also heard evidence that you 'rush things' and 'do not pay attention to what people are saying'. The panel was therefore of the view that it does not have any evidence before it which demonstrates any improvement or development into your clinical skills and insight since the original hearing.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel has no new evidence before it to suggest that there has been a material change in the circumstances. In light of this, this panel determined that you remain 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 your fitness to practise remains impaired.'

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

'The panel considered that your 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 imposing a further conditions of practice order on your 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. 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 there was no evidence of general incompetence and no deep-seated attitudinal problems. In this case, conditions could be formulated which would protect patients during the period they are in force.

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 your case.

Accordingly, the panel determined, pursuant to Article 30(2) to confirm the current conditions of practice order. It decided to impose 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 a single employer, not in the community, who can provide you with a preceptorship programme. This employer must not be an agency or bank.*
- 2. On commencement of your employment, you must undertake a preceptorship programme.*
- 3. You must ensure that you are supervised at 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 another registered nurse.*

4. You must meet with your line manager, supervisor, mentor or preceptor every month to discuss your clinical practice and performance, particularly in relation to:

- a. Medications management and administration;
- b. Record keeping
- c. Infection prevention and control;
- d. Prioritisation of care, and;
- e. Assessment of patients and care planning.

5. You must send a report to your case officer prior to any review hearing, from your line manager, supervisor, mentor or preceptor outlining your clinical practice and performance, particularly in relation to:

- a. Medications management and administration;
- b. Record keeping
- c. Infection prevention and control;
- d. Prioritisation of care, and;
- e. Assessment of patients and care planning.

6. [PRIVATE]

7. You must keep us informed about anywhere you are working by:

- a. Telling your case officer within seven days of accepting or leaving any employment.
- b. Giving your case officer your employer's contact details.

8. You must keep us informed about anywhere you are studying by:

- a. Telling your case officer within seven days of accepting any course of study.
- b. Giving your case officer the name and contact details of the organisation offering that course of study.

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 clinical incident you are involved in.*
- 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 conditions of practice order will remain in place until the end of 31 October 2024.

Before the end of the period of the order, a panel will hold a review hearing to see how well you have 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 setting out how your shortcomings whilst at the Trust will have impacted on patients and colleagues;*
- Evidence of any ongoing training and any application of the new knowledge in nursing practice;*
- Testimonials from colleagues and/or patients;*
- Your attendance at a future review hearing of this order.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Ford'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 on-table documents. It has taken account of the submissions made by Mr Cox on behalf of the NMC and Mr Hussain-Dupré on behalf of Mrs Ford.

Mr Cox referred the panel to the NMC bundle and provided a brief background of the case. In his summary, he noted that multiple charges against Mrs Ford were proven, including issues related to documentation, clinical treatment, and infection control. These issues were significant enough to establish a lack of competence, leading to a finding of impairment that was necessary to protect the public and maintain confidence in the nursing profession. He referred the panel to the decisions of the previous panels and invited this panel to consider that Mrs Ford's fitness to practise remains impaired and that the current conditions of practice order should continue.

Mr Cox highlighted that despite previous opportunities, Mrs Ford has not demonstrated any improvement in her practice or developed insight/reflections into her shortcomings. He referred to the previous review panel's decision, which found no evidence of ongoing training or steps taken by Mrs Ford to strengthen her practice. He outlined that the previous panel had stated that a future panel would be assisted by a reflective piece, evidence of any ongoing training and any application of the new knowledge in nursing practice, testimonials from colleagues and/or patients, and her attendance at a future review hearing; none of which were before the panel at this hearing.

Mr Cox submitted that as per the case of *Abrahaem v NMC* [2008] EWHC 183 (Admin), it is Mrs Ford and not the NMC who bears the burden of demonstrating that her fitness to practise was no longer impaired. He submitted that Mrs Ford's practice remains impaired due to the absence of evidence showing any change or improvement in her clinical skills

or understanding of the impact of her actions. Therefore, Mr Cox argued that continuing the current conditions is essential for public protection and maintaining trust in the nursing profession. Mr Cox also addresses the potential lapse of Mrs Ford's registration, arguing that it is safer for public confidence to maintain the conditions rather than allowing her registration to expire, as she could potentially seek readmission in the future.

The panel also had regard to Mr Hussain-Dupré's submissions on behalf of Mrs Ford. He informed the panel that Mrs Ford has decided to move on from nursing and does not intend to seek readmission. He acknowledged that while her statement alone may not be concrete evidence that she will not return to nursing in the future, it reflects her exhaustion with the process, [PRIVATE], and [PRIVATE] since she has not worked as a nurse since 2019.

Mr Hussain-Dupré argued that continuing the conditions of practice order would be futile, as it would require further reviews, which would place a [PRIVATE] burden on Mrs Ford without serving any practical purpose, given her intention to leave the profession. He also highlighted that Mrs Ford's registration fee expired in 2019, meaning her registration would lapse if the order expired, and she would need to address the impairment issue if she ever sought readmission.

Mr Hussain-Dupré emphasised Mrs Ford's deep disappointment as she feels there was lack of support throughout the process and her belief that it has dragged on for too long, adding to her decision not to continue with nursing. He concluded by inviting the panel to allow the order to expire, aligning with Mrs Ford's wish to move on from her nursing career.

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 Ford's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Ford had insufficient insight. At this hearing, the panel had no evidence before it to suggest that her insight had developed since the last review.

In its consideration of whether Mrs Ford has taken steps to strengthen her practice, the panel took into account that no additional material has been put before it to indicate that Mrs Ford has taken steps to improve her practice. It noted that the recommendations made by the previous panel which would have assisted this panel, namely the submission of additional material such as a reflective piece, evidence of any ongoing training and any application of the new knowledge in nursing practice, testimonials from colleagues and/or patients, were not placed before it today. It also noted that Mrs Ford is not currently practising as a nurse and is therefore unable to demonstrate compliance with the conditions of practice order.

Further, the panel had sight of various documentation, including the telephone notes of Mrs Ford's communications with an NMC case officer. It had particular regard to the telephone call on 23 May 2024, which stated:

"...SF said that it has been a really stressful time and she explained how difficult it had been including the recent hearing. She said that the process does not make it easy for someone to move on. SF is thinking of writing an article for a publication (such as NT), as she hopes it will help someone else.

SF said that at the hearing she felt 'attacked' and did not agree with the NMC approach. She said her new boss who attended had sympathised with her and had agreed with SF that it was a difficult process and she had no idea that it was this hard. SF said that after the hearing she resigned from the position, although they asked her to still work with them as an HCA, SF said that she felt that she had no choice but to resign...

...SF said that in her experience, the process is not designed for people to move on. She said that there are so many people who go through this, and that she thinks the NMC has got it wrong in a lot of cases in her opinion. I said I appreciated that she felt this way and I was sorry for this. I said that we did have some people who

found it difficult to get their order lifted, but also a lot of people who returned to unrestricted practice. I said that I did however acknowledge her personal experience.

I asked if there was anything I could do to support further. SF said that her lawyer would help. I explained about the next hearing and that I'd send her information about the next steps. I said once we have her representative details, we can liaise with them but she can tell us if there's anything else that would help with communication.

I said that next SOR will be around September time and explained what the future panel would be looking for, including training and reflections. I explained about testimonials and she said she wouldn't be able to get that from her client who she supports and that it wasn't appropriate for her to ask them. I explained that was a standard ask and about what testimonials/references mean, SF said she doesn't see how they help. I said that the SOR panel are looking for remedies of the original concerns. SF said that she can speak to her lawyer about that. SF said it would be helpful to have it in an email..."

In light of the above, the panel noted that Mrs Ford appeared to have become disillusioned by this process and appears to no longer have any motivation or willingness to engage.

For the above reasons, the panel determined that Mrs Ford remained liable to repeat matters of the kind found proved as there has been no information received to suggest a development in her insight or strengthening of practice. 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 Ford's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Ford'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 had regard to its previous findings on impairment in coming to this decision. It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel also had regard to the NMC guidance on 'Removal from the register when there is a substantive order in place' (REV-3h), which was recently updated on 30 August 2024. It had particular regard to the following parts in section '2. Lapse with impairment':

"Circumstances where lapse with impairment is likely to be appropriate include where

- ...
- *there has been insufficient progress*
 - ...
 - *in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g. health, ..., the ability to find work or other personal circumstances)."*

The panel was satisfied that the specific circumstances of this case was applicable to this section of the guidance.

The panel then had regard to the 'Panel considerations' and determined that the following considerations were relevant/engaged:

"...

- *It is not in the public interest or a professional's interests to remain on the register indefinitely when they are not fit to practise;*

- *there are advantages to all parties in setting time limits to conditions; those time limits are set for a reason and should be respected;*
- *professionals who leave the register can apply for readmission if they feel they are no longer impaired – for example, their health or language skills have demonstrably improved. A professional who has been struck off can only apply for restoration after five years.*
- *in any application for readmission the decision maker will be aware of the concerns that led to the original substantive finding of impairment, and that the professional left the register while impaired.”*

The panel determined that, whilst there are concerns regarding Mrs Ford’s clinical practice, it would be wholly disproportionate to confirm the current conditions of practice in light of the fact that Mrs Ford indicated that she has no intention or desire to practise in a nursing capacity at this time. The panel noted that Mrs Ford is not currently working in a nursing capacity and is pursuing an alternative career in a different field, namely house renovations. It also noted that Mrs Ford had engaged with the process, but that there would be no purpose in continuing to implement the current conditions if she had no intention of engaging with these in the foreseeable future. It also considered that there may be adverse financial implications for Mrs Ford and the NMC should there be on-going regular reviews of this case where her position is unlikely to change.

Having considered all the factors above, the panel was satisfied that allowing the order to expire was the appropriate and proportionate way forward in the specific circumstances of this case. The panel was satisfied that the public would remain protected by its finding of impairment as in the event that Mrs Ford wished to apply for readmission, the Registrar or Assistant Registrar would be able to take account of the panel’s decision and that Mrs Ford’s fitness to practise is still impaired upon leaving the register.

The substantive conditions of practice order will be allowed to lapse at the end of the current period of imposition, namely the end of 31 October 2024 in accordance with Article 30(1).

This will be confirmed to Mrs Ford in writing.

That concludes this determination.