

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

**Substantive Order Review Hearing
Monday 24 March 2025**

Virtual Hearing

Name of Registrant:	Mrs Claire Gemine
NMC PIN	06I1698S
Part(s) of the register:	Nurses part of the register Sub part 1 RNA: Adult nurse, level 1 (01 September 2010)
Relevant Location:	Newport-on-Tay
Type of case:	Misconduct
Panel members:	Nicholas Rosenfeld (Chair, lay member) Georgina Foster (Lay member) Tanya Tordoff (Registrant member)
Legal Assessor:	Alain Gogarty
Hearings Coordinator:	Rose Hernon-Lynch
Nursing and Midwifery Council:	Represented by Shopna Roy, Case Presenter
Mrs Gemine:	Not present and unrepresented
Order being reviewed:	Conditions of practice order (6 months)
Fitness to practise:	Impaired
Outcome:	Extension of Conditions of practice order (for a period of 6 months) to come into effect on 30 April 2025 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 Gemine was not in attendance and that the Notice of Hearing had been sent to Mrs Gemine's registered email address by secure email on 13 February 2025.

Ms Roy, 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 Gemine'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 Gemine 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 Gemine

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

Ms Roy referred the panel to the documentation from Mrs Gemine which included emails dated 19 March 2025, 20 March 2025 and 24 March 2025 which all state Mrs Gemine is content for the hearing to proceed in their absence.

The panel accepted the advice of the legal assessor.

The panel determined to proceed in the absence of Mrs Gemine. In reaching this decision, the panel has considered the submissions of Ms Roy 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 Gemine;
- Mrs Gemine 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 including in correspondence today when further attempts were made to contact Mrs Gemine;
- 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 Gemine.

Decision and reasons on review of the substantive order

The panel determined to extend the current conditions of practice order for a period of six months.

This order will come into effect at the end of 30 April 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 2 October 2024.

The current order is due to expire at the end of 30 April 2025.

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

The charges found proved were as follows:

‘1. Failed to manage the following funds from Riverview Lodge Care Home (“the Home”) in a clear and transparent way:

i. personal funds; [Proved]

ii. a comfort fund and [Proved]

...

2. Failed to maintain a clear audit trail of the above funds outlined in charge

1. [Proved in respect of charge 1. ii.]

...

6. Failed to dispose of medication safely and appropriately. [Proved]

7. Failed to maintain accurate records of the disposal of medication. [Proved]

...

11. Offered temazepam to colleague A and failed to keep a record/audit of this. [Proved]

...’

Charges 6 and 11 were found to constitute misconduct.

The original panel determined the following with regard to impairment:

‘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 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 determined that the first three limbs in the above test were engaged in this case.

Taking into account all of the evidence adduced in this matter, the panel found that Colleague A was put at risk of harm as a result of Mrs Gemine's misconduct in offering them the drug. It determined that Mrs Gemine's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel next went on to consider the matter of insight. It noted that Mrs Gemine has expressed apologies for some of her actions. However, it noted that Mrs Gemine has not specifically addressed her misconduct in respect of offering Temazepam to Colleague A. It found that it had not received any evidence to suggest that Mrs Gemine has demonstrated an understanding of how her actions put her colleague at risk of harm, and how this impacted negatively on the reputation of the nursing profession. The panel recognised that Mrs Gemine denied this allegation but considered that it has received no information since the panel's determination on facts about how she would handle such a situation differently in the future. It determined that Mrs Gemine demonstrated limited insight and remorse.

The panel carefully considered the evidence before it in determining whether or not Mrs Gemine has taken appropriate steps to strengthen her practice. However, the panel has not received any information to suggest that Mrs Gemine has taken any steps to address the specific concerns raised about her practice, such as relevant training or reflection on the consequences of her actions.

The panel was of the view that due to the limited insight and remorse, as well as the lack of evidence of strengthened practice, there remains a risk of repetition. The panel considered that Mrs Gemine's misconduct demonstrated a failure to acknowledge standards of professional practice, which can lead to unsafe practice. On the basis of all the information before it, the panel decided that there is a risk to the public, if Mrs Gemine was allowed to practise without restriction. The panel therefore determined that a finding of current impairment on public protection grounds is necessary.

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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Gemine's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Gemine's fitness to practise is currently impaired in relation to the findings made for Charges 6 and 11.'

The original panel determined the following with regard to sanction:

'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 Gemine'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 Gemine's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Gemine's registration would be a sufficient and appropriate response. The

panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- ...*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel considered whether it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. It determined that Mrs Gemine's misconduct is capable of being remediated as there is no evidence of harmful deep-seated personality or attitudinal concerns. The panel determined that there are identifiable areas of Mrs Gemine's practice in need of development. The panel took into account evidence of systemic issues within the Home at the relevant time and found no evidence of general incompetence. It had regard to Mrs Gemine's submission that she independently sourced/funded and undertook training courses due to lack of training provided at the Home. This reassured the panel that Mrs Gemine may demonstrate willingness to respond to retraining. The panel was of the view that practical and workable conditions can be created in these circumstances.

The panel concluded that a conditions of practice order would give Mrs Gemine the opportunity to demonstrate that she is capable of safe and effective practice, while at the same time protecting patients. It was also of the view that Mrs Gemine's return to practice as a nurse, with appropriate safeguards in place, would meet the public interest. Balancing all of these

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

The panel determined that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of Mrs Gemine's case as the overarching objective of public protection and public interest can be satisfied by the imposition of a lesser sanction.'

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it, including the NMC bundle, and response from Mrs Gemine including a reflective statement emailed on 24 March 2025 and a screenshot of a training certificate. It has taken account of the submissions made by Ms Roy on behalf of the NMC. She submitted that the panel have not received any information that Mrs Gemine has taken sufficient steps to address the concerns.

Ms Roy referred the panel to the previous panels' recommendations with regards to a future review:

'Any future panel reviewing this case would be assisted by:

- Engagement with the NMC including attendance at any future review hearings;*
- A reflective statement addressing the panel's findings on impairment;*
- An update showing your progress towards achieving the aims set out in your PDP'*

Ms Roy submitted that the panel may observe that Mrs Gemine is not in attendance or represented.

Ms Roy submitted that the statement provided on 24 March 2025 by Mrs Gemine refers to efforts made to learn from what went wrong. Ms Roy further submitted that there is no evidence provided of such training or what the course entails. Ms Roy also submitted that, while Mrs Gemine has provided a screenshot stating she has completed a course in Safe Handling and Administration of Medication, there is no verified copy before the panel or details as to what the course covered.

Ms Roy submitted that Mrs Gemine has not provided a fully reflective statement addressing the original panel's determination with respect to any subsequent developments made.

Ms Roy submitted that Mrs Gemine remains impaired and a conditions of practice order remains necessary on both public interest and public protection grounds.

Ms Roy referred the panel to the NMC Guidance Rev-3h (*'Removal from the register when there is a substantive order in place'*). Ms Roy submitted that Mrs Gemine's registration lapsed on 20 April 2021 and if an order was lifted Mrs Gemine would no longer be registered or be able to practise. Ms Roy submitted that in an email to the NMC dated 19 March 2025 Mrs Gemine stated:

'I am not intending to return to nursing, but I have been taking an online course regarding medication and errors. Additionally, I have researched and read several online stories which have helped me reflect on my experience.'

Ms Roy submitted therefore that Mrs Gemine's future intentions are unclear.

Ms Roy submitted that it is not clear that Mrs Gemine would benefit from allowing the current order to lapse. Ms Roy also submitted that no further action and a Caution order would be inappropriate given the seriousness of the charges found proved.

Ms Roy submitted that a Conditions of Practice order remains sufficient. Ms Roy further submitted that Mrs Gemine has not complied with any of the conditions previously imposed and a Conditions of Practice order for a further six months would allow Mrs Gemine to decide what she wishes to do in relation to her nursing career. Ms Roy also submitted that it would afford Mrs Gemine time to build on her reflection and strengthen her practice or to confirm that she wishes to return to nursing.

Ms Roy submitted that a suspension order or striking off order would be wholly disproportionate.

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 Gemine's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Gemine had limited insight. At this review hearing the panel determined that Mrs Gemine is currently impaired and was not satisfied there was no further risk that there would be no repetition of the misconduct. The panel is also not satisfied that Mrs Gemine has taken appropriate steps to comply with the Conditions of Practice order imposed by the original panel. The panel did not have the benefit of considering a PDP which was required as part of her conditions of practice order. The panel was provided with a reflective piece from Mrs Gemine regarding her insight dated 24 March 2025, but the panel found that her insight has not fully developed to include the impact of Mrs Gemine's actions on patients, colleagues, the wider nursing profession and public confidence.

The panel found that the training certificate provided on 24 March 2025 by Mrs Gemine did not sufficiently satisfy the concerns of the original panel and therefore the panel determined that Mrs Gemine has not addressed the original panel's findings. The panel further considered that the training certificate did not either allay or address the misconduct proved. It is also unclear as to Mrs Gemine's intentions going forward where

the information is contradictory with a wish to leave nursing but also of the steps Mrs Gemine has taken to attempt to strengthen her practice.

The original panel determined that Mrs Gemine was liable to repeat the misconduct found proved. This panel has received limited information from Mrs Gemine. This panel received insufficient evidence which would allay its fears that Mrs Gemine is not liable to repeat the misconduct found proved. The panel therefore determined that Mrs Gemine is impaired 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, given the nature of the misconduct found proved a finding of continuing impairment on public interest grounds is also required. For these reasons, the panel finds that Mrs Gemine's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Gemine'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 further action but concluded that this would be inappropriate in view of the seriousness of the case. The panel determined 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 Gemine'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 Gemine's

misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on Mrs Gemine's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel determined 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, no deep-seated attitudinal problems and that the misconduct related to poor judgement rather than clinical competence. In this case, there are conditions which could be formulated which would protect patients and the public during the period they are in force.

The panel determined 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 Mrs Gemine's case.

Accordingly, the panel determined, pursuant to Article 30(1)(a) to extend the conditions of practice order for a period of six months, which will come into effect on the expiry of the current order, namely at the end of 30 April 2025. 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 will send the NMC a report at least 14 days in advance of your next hearing from your employer detailing your compliance with these conditions.

2. You must not handle controlled drugs (including administration and disposal) unless supervised by another registered nurse (except in life threatening emergencies). This supervision must consist of:

a) Direct observation by a registered nurse when handling controlled drugs, including their administration and disposal.

3. You must create a personal development plan (PDP). Your PDP must address the concerns raised within the following areas:

- Recognising and working within your competence.
- Advising on, prescribing, supplying, dispensing or administering medicines within the limits of your training and competence, the law, NMC guidance and other relevant policies, guidance and regulations.
- Upholding the reputation of your profession at all times.

You must: a) Send your case officer a copy of your PDP at least 14 days before the next review along with an update showing your progress towards achieving the aims set out in your PDP.

4. You must keep the NMC informed about anywhere you are working by:

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

5. You must keep the NMC informed about anywhere you are studying by:

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

6. You must immediately give a copy of these conditions to:

- a) Any organisation or person you work for.
- b) Any agency you apply to or are registered with for work and any organisation you work for on their behalf.
- c) Any employers you apply to for work (at the time of application).

d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity

7. 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.

8. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

a) Any current or future employer.

b) Any educational establishment.

c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for six months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 30 April 2025 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Gemine has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- A definitive statement from Mrs Gemine as to her intentions with regards to her future career in nursing;
- Engagement with the NMC including attendance at any future review hearing;

- A detailed reflective piece focusing on the impact of her misconduct on patients and colleagues and the nursing profession as a whole; and
- A reflective piece addressing the panel's findings on impairment

This will be confirmed to Mrs Gemine in writing.

That concludes this determination.