

Nursing and Midwifery Council Fitness to Practise Committee

**Substantive Meeting
Friday 9 December 2022**

Nursing and Midwifery Council
Virtual Meeting

Name of registrant:	Nicola Grace Cornthwaite
NMC PIN:	86H0412E
Part(s) of the register:	Nursing – Sub Part 1 Adult Nursing – October 1989
Relevant Location:	Lancashire
Type of case:	Misconduct
Panel members:	Paul O’Connor (Chair, Lay member) Laura Wallbank (Registrant member) Richard Curtin (Registrant member)
Legal Assessor:	John Bassett
Hearings Coordinator:	Elena Nicolaou
Consensual Panel Determination:	Accepted
Facts proved (by admission):	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Conditions of practice order (12 months)
Interim order:	Interim conditions of practice order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Mrs Cornthwaite was not in attendance and that the Notice of Meeting had been sent to her email address on 26 August 2022.

Further, the panel noted that the Notice of Meeting was also sent to Mrs Cornthwaite's representative at the Royal College of Nursing (RCN) on 26 August 2022.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, the date after which the meeting would be held, and that the meeting would be virtual.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Cornthwaite has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse,

1. On 1 May 2019, administered Gabapentin to Patient A when it had not been prescribed.
2. On 15 October 2019, in respect of Patient B:
 - a. did not administer Tranaxemic acid;
 - b. did not administer Terliprerssin;

- c. Upon noting that Tranaxemic acid and Terliprerssin was out of stock, you failed to order the medications from pharmacy and/or inform a senior member of staff.
3. On 21 January 2020, in respect of Patient F:
 - a. used another patient's prescription and/or drug supply to administer Fexofenadine to Patient F;
 - b. did not record the administration of Fexofenadine on Patient F's drug chart which resulted in a double dose of Fexofenadine being administered.
4. On 27 July 2020, did not administer prescribed antibiotics to Patient C.
5. On 2 September 2020, in respect of Patient D:
 - a. did not administer Lamotrigine, an anti-epileptic medication to a patient who was in an 'epileptic state'
 - b. did not escalate to pharmacy that you could not find Lamotrigine despite the prescription chart stating it was a 'critical medicine'

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

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mrs Cornthwaite.

The agreement, which was put before the panel, sets out Mrs Cornthwaite's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is

further stated in the agreement that an appropriate sanction in this case would be a conditions of practice order for a period of 12 months.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council and Nicola Grace Cornthwaite, PIN 86H0412E ("the Parties") agree as follows:

1. *Mrs Cornthwaite is content for her case to be dealt with by way of a CPD meeting. Mrs Cornthwaite understands that if the panel determines that a more severe sanction should be imposed, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.*

The charge

2. *Mrs Cornthwaite admits the following charges:*

That you, a registered nurse,

1. *On 1 May 2019, administered Gabapentin to Patient A when it had not been prescribed.*
2. *On 15 October 2019, in respect of Patient B:*
 - a. *did not administer Tranaxemic acid;*
 - b. *did not administer Terliprerssin;*
 - c. *Upon noting that Tranaxemic acid and Terliprerssin was out of stock, you failed to order the medications from pharmacy and/or inform a senior member of staff.*

3. *On 21 January 2020, in respect of Patient F:*
 - a. *used another patient's prescription and/or drug supply to administer Fexofenadine to Patient F;*
 - b. *did not record the administration of Fexofenadine on Patient F's drug chart which resulted in a double dose of Fexofenadine being administered.*

4. *On 27 July 2020, did not administer prescribed antibiotics to Patient C.*

5. *On 2 September 2020, in respect of Patient D:*
 - a. *did not administer Lamotrigine, an anti-epileptic medication to a patient who was in an 'epileptic state'*
 - b. *did not escalate to pharmacy that you could not find Lamotrigine despite the prescription chart stating it was a 'critical medicine'*

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

The facts

3. *Mrs Cornthwaite appears on the register of nurses, midwives and nursing associates maintained by the NMC as an Adult Nurse and has been a registered nurse since 31 October 1989.*

4. *On 6 October 2020, the NMC received a referral from Medacs Healthcare Agency ("the Agency") regarding Mrs Cornthwaite. She commenced nursing shifts with the Agency in October 2017 and worked in a variety of settings across approximately 20 hospitals.*

5. *The referral detailed a number of incidents relating to medication administration and record keeping concerns. These incidents took place across three different Trusts between May 2019 and 21 September 2020.*

Charge 1

6. *On 1 May 2019, whilst working at the Lancashire Teaching Hospitals Trust, Mrs Cornthwaite administered Gabapentin to Patient A when it was not prescribed. When the drug charts were checked, it was discovered that Mrs Cornthwaite had given Patient A medication that had been prescribed for Patient B who was in the next bed. Mrs Cornthwaite took full responsibility for her errors. She completed a reflective statement indicating steps she would take to ensure it would not happen again.*

Charge 2

7. *On 15 October 2019, whilst working at the Blackpool Victoria Hospital, Mrs Cornthwaite failed to administer Tranaxemic acid and Terlipressin to Patient B who was suffering from acute bleeding. These two drugs were not stock items and although Mrs Cornthwaite recorded '5' on the drug chart, (which indicates drugs not available), on three separate occasions during the shift, she made no attempt to order the medication from the pharmacy or escalate it with a senior member of staff. Mrs Cornthwaite produced a reflective statement following the incident at the request of the Agency.*

Charge 3

8. *On 21 January 2020, whilst working at the Blackpool Victoria Hospital, Mrs Cornthwaite administered fexofenadme, an antihistamine, to Patient F without signing for it in the drug chart. Patient F's drug chart had been sent to the pharmacy to obtain the prescribed drug and was unavailable to sign. Therefore, Mrs Cornthwaite used a drug from another patient's prescription in the meantime. This resulted in another nurse administering the same drug to Patient F and therefore he received a double dose.*

9. *There was no patient harm, and Mrs Cornthwaite correctly escalated the incident to the ward Sister and completed a Datix report. Notwithstanding this, she should not have used a drug from another patient's stock or given a drug without the drug chart being present. Mrs Cornthwaite wrote a reflective statement following the incident.*

Charge 4

10. *On 27 July 2020, Mrs Cornthwaite failed to administer prescribed antibiotics to a Patient C. The staff nurse who reported the incident was informed of the omission by Mrs Cornthwaite after her shift when she realised her error. There was no patient harm and Mrs Cornthwaite was asked to complete a reflective statement.*

Charge 5

11. *On 2 September 2020, whilst working at the Lancashire Teaching Hospitals Trust, Mrs Cornthwaite failed to administer Lamotrigine, an anti-epileptic medication, to a patient who was admitted in an 'epileptic state'. This medication cannot be missed especially as the patient was a known epileptic and they could have suffered further seizures. The prescription chart had 'CRITICAL MEDICINE' next to the name of the drug on the prescription chart. Another nurse found the medication in the ward's medicine trolley and administered it immediately. Witness 1, Director of Clinical Governance at Medacs Global states in her witness evidence:" I consider this incident to be very serious because Patient D was in a state of epilepticus, so failing to administer the required medication is concerning and the patient could have been at risk of death". There was no patient harm and Mrs Cornthwaite completed a reflective statement.*

12. *Mrs Cornthwaite admits the charges and accepts that her fitness to practise is currently impaired by reason of her misconduct.*

Misconduct

13. *The Parties agree that the facts amount to misconduct.*

14. *In the case of Roylance v General Medical Council (No.2) [2000] 1 AC 311, Lord Clyde defined misconduct as follows:*

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances'

15. *Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) is to be answered by reference to the NMC's Code of Conduct.*

16. *The Parties agree that Mrs Cornthwaite conduct breached the following paragraphs of the NMC's Code of Conduct (effective 2015):*

17. *The following paragraphs of the 2015 NMC Code of Conduct have been breached:*

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

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*

8 Work Cooperatively

To achieve this, you must:

- 8.5 *work with co/leagues to preserve the safety of those receiving care*
- 8.6 *share information to identify and reduce risk*

9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues

To achieve this, you must:

- 9.2 *gather and reflect on feedback from a variety of sources, using it to improve your practice and performance*

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

- 10.1 *complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event*
- 10.2 *identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need*
- 10.3 *complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements*

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

To achieve this, you must:

- 16.1 *raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other health and care setting and use the channels available to you in line with our guidance and your local working practices*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 *keep to and uphold the standards and values set out in the Code*

18. *The Parties agree that Mrs Cornthwaite's conduct in all the charges fell short of what would be reasonably expected of a registered nurse in the circumstances.*

19. *It is accepted that not every breach of the Code will result in a finding of misconduct however, Mrs Cornthwaite's failings are serious and relate to basic nursing skills. While there is no evidence of patient harm, Mrs Cornthwaite's medication administration and record keeping failings, and her failure to escalate these incidents adequately, placed patients at serious risk of harm.*

20. *Mrs Cornthwaite's failings occurred in multiple settings over an extended period of time. Further, there is a pattern of drug administration errors which continued despite Mrs Cornthwaite's reflection and training. These failings are likely to cause risk to patients in the future if they are not addressed. Mrs Cornthwaite's failings both individually and cumulatively, amounts to misconduct.*

Impairment

21. *The Parties agree that Mrs Cornthwaite's fitness to practise is currently impaired by reason of her misconduct.*

22. *In considering the questing of impairment, the Parties have considered the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin), in which Mrs Justice Cox adopted the matters outlined by Dame Janet Smith in the Fifth Shipman report which invites panels to ask in the particular circumstances of this case:*

Do our findings of fact show that the Registrant's 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 professions 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 professions; and/or*
- d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

23. In this case limbs a, b and c are engaged.

24. Mrs Cornthwaite's actions put patients at unwarranted risk of harm. She failed to administer medication correctly and made numerous record-keeping errors. She is an experienced nurse of over 30 years, and many of the concerns relate to basic requirements for safe practice. These incidents occurred over a period of 16 months during which time Mrs Cornthwaite provided reflections of the incidents and completed further relevant medication refresher training. The errors continued notwithstanding this further training and reflection.

25. Mrs Cornthwaite brought the profession into disrepute and has breached fundamental tenets of the profession by failing to provide the appropriate level of care to patients.

26. The public, quite rightly, expects nurses to provide safe and effective care, and conduct themselves in ways that promotes trust in the nursing profession. Hearing about Mrs Cornthwaite's actions would cause patients and members of the public to be concerned about their safety and feel unnecessarily anxious about their healthcare treatment. This could result in patients, and members of

the public, feeling deterred from seeking medical assistance when they should. Therefore, the Parties agree that Mrs Cornthwaite's conduct is liable in the future to bring the medical profession into disrepute.

27. Mrs Cornthwaite's actions breached the fundamental tenets of the nursing profession, to prioritise people, practise effectively, and preserve safety.

Remediation, reflection, training, insight, remorse

28. The Parties have also considered the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment, namely;

- a) Whether the conduct that led to the charge(s) is easily remediable.*
- b) Whether it has been remedied.*
- c) Whether it is highly unlikely to be repeated.*

2. Mrs Cornthwaite's conduct relate to a series of medication errors and poor record keeping, which can be remedied through training and supervision.

29. However, despite the training provided to the registrant she has continued to make errors, thereby failing to remediate the concerns raised. Mrs Cornthwaite has accepted the charges, showing some insight, however this is limited. In the absence of full remediation, the risk of repetition is high.

30. Mrs Cornthwaite provided local reflective statements demonstrating insight throughout the period from May 2019 to September 2020 and yet her errors continued. [PRIVATE]. Mrs Cornthwaite has also obtained two training certificates in relation to the safe administration of medicines and medication awareness and dosage of calculation for nurses, However, these were

completed in October and November 2020. There is no up to date evidence of any further training, reflection or steps taken by her to successfully remedy the deficiencies in her practice.

Public protection impairment

31. The Parties agree that a finding of impairment is necessary on public protection grounds.

32. In the absence of full insight and remediation, and in light of the prolonged and repeated nature of the concerns, Mrs Cornthwaite is liable in the future to put patients at unwarranted risk of harm were she to practise without restriction.

Public interest impairment

33. The Parties agree a finding of impairment is also necessary on public interest grounds.

34. In the case of Grant at paragraph 74 Cox J commented that:

"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."

35. The reputation of the nursing profession would be damaged if Mrs Cornthwaite were to be permitted to practise unrestricted: the public expect nurses to practise safely, deliver appropriate care at all times and document the care

given. A finding of current impairment is therefore necessary to declare and uphold proper standards.

36. For the reasons above, Mrs Cornthwaite's fitness to practise is currently impaired by reason of her misconduct on public protection and public interest grounds.

Sanction

37. The Parties have considered all sanction options open to the panel, starting with the least restrictive sanction, and agree that the appropriate sanction in this case is a 12 months conditions of practice order with a review, prior to expiry.

38. In determining sanction, the panel should have regard to the NMC's Sanctions Guidance ('the Guidance'), bearing in mind that it provides guidance and not firm rules. The panel will be aware that the purpose of sanctions is not to be punitive but to protect the public and public interest it follows, as in the case of Bolton v Law Society [1993] EWCA Ctv 32, that 'since the professional body is not primarily concerned with matters of punishment, considerations which would normally weigh in mitigation of punishment have less effect on the exercise of this kind of jurisdiction'.

39. The panel should take into account the principle of proportionality and it is submitted that the proposed sanction is a proportionate one that balances the risk to public protection and the public interest with the Registrant's interests.

40. The panel may consider the aggravating features in this case are:

- Repetition of conduct over a sustained period of time;*
- Conduct which put patients at risk of suffering harm; and*

- *Lack of full insight into failings and lack of remediation.*

41. The panel may consider the mitigating features in the case are as follows:

- *Mrs Cornthwaite admits all the charges and accepts that her fitness to practise is impaired.*
- *Mrs Cornthwaite demonstrated insight at a local level and accepted a number of the allegations.*
- *Presence of contextual factors/ human factors that may have contributed to the incidents. For example, it is noted that in respect of Charge 2, Mrs Cornthwaite worked her first day on the unit without receiving any induction.*
- *[PRIVATE].*

42. Taking no further action would not be appropriate in view of the seriousness of the misconduct and the need to declare and uphold proper standards of conduct.

43. Imposing a caution order would not be appropriate in this case, nor would it be sufficient to mitigate the risks in this case. A caution order would not protect the public or satisfy the public interest.

44. The Parties agree that a Conditions of Practice Order is the most appropriate and proportionate order to address the risks in this case. The concerns in this case relate to numerous clinical failings in a various places of employment. There are identifiable areas within Mrs Cornthwaite's practice which require retraining and supervising. Although Mrs Cornthwaite has previously failed to remediate the concerns raised through retraining, both parties agree that it

would be proportionate given the mitigating factors in this case to allow Mrs Cornthwaite a further opportunity to address the deficiencies in her practice.

45. It is further noted that the incidents took place whilst she was working as agency nurse in numerous hospitals; conditions which require Mrs Cornthwaite to work with one substantive employer whilst the conditions are in force will provide her an opportunity to receive structured training and evidence safe practice whilst under supervision. Furthermore, there is no evidence of any harmful deep-seated personality or attitudinal problems, and patients would not be put in danger as a result of the conditions and it would sufficiently protect the public in this case.

46. The Parties agree and recommend the following conditions:

- 1) You must not work or otherwise provide nursing services.
 - a. as the sole nurse on duty;*
 - b. through an agency or as a bank nurse.**

- 2) At any time that you are employed or otherwise providing nursing services, to place yourself and remain under the supervision of a workplace line manager or supervisor nominated by your employer. Such supervision must consist of
 - a. Working at all time on the same shift as, but not necessarily under the direct observation of a registered nurse;*
 - b. to complete medication rounds only when under the direct supervision of another registered nurse until such time that you are deemed competent by a nurse of grade 6 or above, to undertake them independently;**

- 3) You must keep a personal development log every time you undertake medication administration and management The log must:
 - a. Contain the dates that you carried out medication administration and management;*
 - b. Be signed by the nurse who directly supervised you each time;**

- c. *Contain feedback from the nurse who directly supervised you each time;*
- 4) *Within 14 days of being deemed competent, you will provide to the NMC evidence that your medication competency has been achieved by:*
- a. *sending a report from your line manager or supervisor setting out the standard of your supervised medication rounds;*
 - b. *Send a copy of the personal development log;*
- 5) *Within 14 days of commencing your employment, to work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan which includes the following:*
- *record-keeping*
 - *medicines administration*
- 6) *You must forward to the NMC a copy of your personal development plan within 14 days of it being agreed.*
- 7) *You must undertake an in person and/or online training around medicines administration and record-keeping.*
- 8) *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least once every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
- 9) *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC every 3 months and at least 14 days before any NMC review hearing or meeting.*

- 10) *You must tell the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
- 11) *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.*
- 12)
- a) *You must within 7 days of accepting any post of employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
 - b) *You must within 7 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
- 13) *You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions to them*
- a. *Any organisation or person employing, contracting with or using you to undertake nursing work*
 - b. *Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services*
 - c. *Any prospective employer (at the time of application) where you are applying for any nursing appointment*
 - d. *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take a course (at the time of application).*

47. The length of the order is 12 months. This will provide Mrs Cornthwaite sufficient time to fully address the concerns identified in her practice. A review prior to the expiry of the sanction will allow the panel to consider whether the order remains necessary.

48. The Parties agree that suspension order or a striking off order would not be proportionate at this time given the mitigating features identified in this case and the concerns are not so serious to require a more serious sanction.

49. In these circumstances, the Parties agree that a 12 month conditions of practice order with review, is both proportionate and appropriate to mark the serious nature of the misconduct and to protect the public.

Interim order

50. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event Mrs Cornthwaite seeks to appeal against the panel's decision. The interim order should take the form of an interim conditions of practice order with the same conditions as the substantive order.

The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mrs Cornthwaite. The provisional CPD agreement was signed by Mrs Cornthwaite on 26 November 2022 and by the NMC on 2 December 2022.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. He referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mrs Cornthwaite. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mrs Cornthwaite admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of her admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Mrs Cornthwaite's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mrs Cornthwaite, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct the panel determined that it agreed with the submissions as set out by the NMC in the CPD. Mrs Cornthwaite has also agreed to misconduct in this case.

In this respect, the panel endorsed paragraphs 13 to 20 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Mrs Cornthwaite's fitness to practise is currently impaired by reason of misconduct.

The panel determined that Mrs Cornthwaite's fitness to practise is currently impaired for the same reasons as set out in the CPD by the NMC. Mrs Cornthwaite has also agreed that her fitness to practise is impaired in this case. The charges found proved suggest that Mrs Cornthwaite breached fundamental tenets of the profession and that there is a real risk of harm and a risk of repetition, despite her reflection, retraining and mitigating circumstances provided. The panel also determined that a well-informed member of the public would be concerned should Mrs Cornthwaite's practice not be restricted, taking into account the numerous medication errors that occurred.

In this respect, the panel endorsed paragraphs 21 to 27 of the provisional CPD agreement in respect of impairment.

Decision and reasons on sanction

Having found Mrs Cornthwaite's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- *Repetition of conduct over a sustained period of time;*

- *Conduct which put patients at risk of suffering harm; and*
- *...lack of remediation.*

The panel also took into account the following mitigating features:

- *Mrs Cornthwaite admits all the charges and accepts that her fitness to practise is impaired.*
- *Mrs Cornthwaite demonstrated insight at a local level and accepted a number of the allegations.*
- *Presence of contextual factors/ human factors that may have contributed to the incidents. For example, it is noted that in respect of Charge 2, Mrs Cornthwaite worked her first day on the unit without receiving any induction.*
- *[PRIVATE].*

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. The panel decided that it would be neither proportionate nor 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 Cornthwaite'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 Cornthwaite'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 Cornthwaite'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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that Mrs Cornthwaite would be willing to comply with conditions of practice. The panel considered that there are identifiable clinical failings in this case, there is no evidence of harmful or deep-seated attitudinal concerns, there is no evidence of general incompetence and, Mrs Cornthwaite has agreed with the conditions of practice proposed within the CPD. The panel determined that the conditions of practice as set out in the CPD are suitable, workable and proportionate, and they would address the concerns in this case and support Mrs Cornthwaite to develop and strengthen her practise as a nurse.

The panel was of the view that it was in the public interest that, with appropriate safeguards, Mrs Cornthwaite should be able to return to practise as a nurse.

Balancing all of these factors, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Mrs Cornthwaite's case, taking into account the mitigating circumstances as set out within the CPD. Mrs Cornthwaite has accepted the charges, she has shown a level of insight, and she has provided information as to her circumstances at the time of the concerns.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel agreed with the CPD that the following conditions are appropriate and proportionate in this case:

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

- 1) You must not work or otherwise provide nursing services:
 - a. as the sole nurse on duty;
 - b. through an agency or as a bank nurse.

- 2) At any time that you are employed or otherwise providing nursing services, to place yourself and remain under the supervision of a workplace line manager or supervisor nominated by your employer. Such supervision must consist of:
 - a. Working at all time on the same shift as, but not necessarily under the direct observation of a registered nurse;
 - b. to complete medication rounds only when under the direct supervision of another registered nurse until such time that you are deemed competent by a nurse of grade 6 or above, to undertake them independently;

- 3) You must keep a personal development log every time you undertake medication administration and management The log must:
 - a. Contain the dates that you carried out medication administration and management;
 - b. Be signed by the nurse who directly supervised you each time;
 - c. Contain feedback from the nurse who directly supervised you each time;

- 4) Within 14 days of being deemed competent, you will provide to the NMC evidence that your medication competency has been achieved by:
 - a. sending a report from your line manager or supervisor setting out the standard of your supervised medication rounds;
 - b. Send a copy of the personal development log;

- 5) Within 14 days of commencing your employment, to work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan which includes the following:
 - record-keeping
 - medicines administration

- 6) You must forward to the NMC a copy of your personal development plan within 14 days of it being agreed.

- 7) You must undertake an in person and/or online training around medicines administration and record-keeping.
- 8) You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least once every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
- 9) You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC every 3 months and at least 14 days before any NMC review hearing or meeting.
- 10) You must tell the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
- 11) You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
- 12)
 - a) You must within 7 days of accepting any post of employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.
 - b) You must within 7 days of entering into any arrangements required by these conditions of practise provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

- 13) You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions to them
- a. Any organisation or person employing, contracting with or using you to undertake nursing work
 - b. Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing services
 - c. Any prospective employer (at the time of application) where you are applying for any nursing appointment
 - d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take a course (at the time of application).

The period of this order is for 12 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Cornthwaite 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.

This will be confirmed to Mrs Cornthwaite in writing.

Decision and reasons on interim order

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 Mrs Cornthwaite's own interest. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months for the same reasons as set out above.

If no appeal is made, then the interim conditions of practice order will be replaced by the substantive conditions of practice order 28 days after Mrs Cornthwaite is sent the decision of this hearing in writing.

That concludes this determination.