

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

**Substantive Hearing
Tuesday, 6 December 2022 – Friday, 16 December 2022**

2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant:	Angeliki Lymperi
NMC PIN	13C0180C
Part(s) of the register:	Registered Nurse Adult Nursing – 21 March 2013
Relevant Location:	Staffordshire
Type of case:	Misconduct
Panel members:	John Vellacott (Chair, Lay member) Pauline Esson (Registrant member) Jan Bilton (Lay member)
Legal Assessor:	Nigel Mitchell
Hearings Coordinator:	Philip Austin
Nursing and Midwifery Council:	Represented by Anna Leathem, Case Presenter
Mrs Lymperi:	Not present and not represented in absence
Facts proved:	All charges
Facts not proved:	None
Fitness to practise:	Currently impaired
Sanction:	Conditions of practice – 18 months
Interim order:	Interim conditions of practice order – 18 months

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Lympéri was not in attendance, nor was she represented in her absence.

The panel was informed that notice of this hearing was sent to an email address that the Nursing and Midwifery Council (“NMC”) had for Miss Lympéri on the NMC Register as of 7 November 2022. The panel noted that the statutory instrument in place allows for electronic service of the notice of hearing to be deemed reasonable in the current circumstances, involving Covid-19.

Ms Leathem, on behalf of the 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 time, date and venue of the hearing and, amongst other things, information about Miss Lympéri’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 Miss Lympéri has been served with the notice of hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Lymperi

The panel next considered whether it should proceed in the absence of Miss Lymperi. It had regard to Rule 21 and heard submissions from Ms Leathem, who invited the panel to continue in the absence of Miss Lymperi.

Ms Leathem submitted that there has been no engagement from Miss Lymperi with the NMC since the Royal College of Nursing (“RCN”) emailed on 14 July 2021 stating:

“Please find attached a letter requesting that the RCN are removed from the record, as we are no longer acting for Ms Lymperi.

Ms Lymperi has advised that she will be disengaging with the NMC proceedings due to her health condition...”[sic].

There was a letter attached to this email from the RCN also notifying the NMC that Miss Lymperi had moved overseas. It asked for all future correspondence to be sent to Miss Lymperi directly.

Ms Leathem informed the panel that the NMC Case Coordinator had attempted to make contact with Miss Lymperi on multiple occasions by email and by telephone to find out if her position remains the same. Ms Leathem stated that Miss Lymperi was also offered the opportunity to attend virtually given that she is no longer in the country. However, a response has not been forthcoming in relation to any of the attempts to contact her.

Ms Leathem referred the panel to the cases of *R v Jones (Anthony William) (No.2) [2002] UKHL 5* and *General Medical Council v Adeogba [2016] EWCA Civ 162* and she submitted that no good reason has been provided by Miss Lymperi as to why this hearing should not proceed today. Furthermore, Ms Leathem submitted that no application for an

adjournment has been received from Miss Lymperi, and that adjourning would be unlikely to solicit her attendance at some point in the future in any event.

Ms Leathem submitted that three witnesses are due to attend to give evidence to the panel at this hearing. She said that any delay in proceeding with this case would have an adverse effect on the witnesses' ability to recollect the alleged incidents.

Ms Leathem submitted any disadvantages caused to Miss Lymperi by the panel proceeding are as a consequence of her choosing not to attend, and that the public interest elements of this case suggest that this matter should be dealt with expeditiously.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones*.

The panel has decided to proceed in the absence of Miss Lymperi. In reaching this decision, the panel has considered the submissions of Ms Leathem and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss Lymperi has disengaged from the NMC since the RCN informed it they were no longer acting for her on 14 July 2021;
- The NMC Case Coordinator attempted to contact Miss Lymperi by both telephone and by email but was unsuccessful in soliciting a response;
- Miss Lymperi was offered the opportunity to attend this hearing virtually;
- No application for an adjournment has been made by Miss Lymperi;
- There is no reason to suppose that adjourning would secure Miss Lymperi's attendance at some future date;

- Three witnesses have been warned to give oral evidence;
- Not proceeding may inconvenience the witnesses, their employer and, should they be involved in clinical practice, the patients or those who need their professional services;
- The charges relate to events that occurred in 2018;
- Further delay may have an adverse effect on the ability of the witness to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Lymperi in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her, she will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give oral evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Lymperi's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Details of charge (Before amendments)

That you, a Registered Nurse, while working at Bradwell Hall Nursing Home:

1. Administered medication to Resident A, when it was not prescribed, on one or more of the following dates:

- 1.1 5 March 2018
 - 1.2 13 March 2018
 - 1.3 18 March 2018
2. In respect of one or more of the dates in charge 1 above, failed to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository to Resident A in that you did not involve Resident A's daughter in the decisions to carry out those procedures and/or administrations
 3. Failed to provide safe care to Resident A, in that you did not advise her GP that Resident A remained constipated, despite being prescribed laxatives.

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

Decision and reasons on application to amend the charges

After having the charges read, the panel heard an application from Ms Leathem to amend a number of the charges before it.

Ms Leathem invited the panel to amend charge 1.2 to read '*On or around 13 March 2018*' as opposed to just having the date, as currently shown in charge 1.2. She submitted that there is some dispute as to the exact date Miss Lympere is said to have administered unprescribed medication to Resident A around this time. Therefore, Ms Leathem submitted that including the words '*On or around*' in the charge widens the scope to include dates in the proximity.

Furthermore, Ms Leathem invited the panel to amend the word '*us*' to '*is*' in the concluding sentence of the charges, so that it now reads "*And, in light of the above, your fitness to*

practise is impaired by reason of your misconduct". She submitted that this is nothing more than a typographical error which is in need of correction.

Ms Leathem submitted that the proposed amendments would not change the substance of the charges against Miss Lymperi. Instead, they would provide clarity and better reflect the evidence presented in this case. Ms Leathem submitted that the proposed amendments were in the interests of justice, and that no prejudice would be caused to Miss Lymperi in allowing these amendments.

The panel accepted the advice of the legal assessor that Rule 28 of the Rules states:

28.— (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—

(a) the charge set out in the notice of hearing; or

(b) the facts set out in the charge, on which the allegation is based,

unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.

(2) Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.

The panel considered that both of the proposed amendments were in the interests of justice. It was satisfied that the proposed amendments did not alter the substance of the charges against Miss Lymperi.

The panel decided that amending these would provide clarity and better reflect the evidence it had received. The panel determined that Miss Lymperi would not be prejudiced

or disadvantaged in any way in amending charge 1.2 and the concluding sentence in the way proposed.

Therefore, the panel decided to grant Ms Leathem's application in respect of both amendments.

Details of charge (After amendments)

That you, a registered nurse, while working at Bradwell Hall Nursing Home:

1. Administered medication to Resident A, when it was not prescribed, on one or more of the following dates:
 - 1.1 5 March 2018
 - 1.2 On or around 13 March 2018
 - 1.3 18 March 2018

2. In respect of one or more of the dates in charge 1 above, failed to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository to Resident A in that you did not involve Resident A's daughter in the decisions to carry out those procedures and/or administrations

3. Failed to provide safe care to Resident A, in that you did not advise her GP that Resident A remained constipated, despite being prescribed laxatives.

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

NMC Opening

In September 2018, the NMC received a referral from Ms 1, the Care Manager at Bradwell Hall Nursing Home (“the Home”). At the material time of the concerns, Ms Lympéri was working at the Home as a registered nurse on the Audley Wing (“the Wing”), which had a total of 45 beds.

Resident A was admitted to the Home in January 2018 from Haywood Hospital. Checks had been carried out whereby it was determined that Resident A’s needs could be provided for at the Home. This included a mental capacity assessment by Colleague B.

On 19 March 2018, Resident A was admitted to hospital following episodes of feeling sick and vomiting. She passed away the same day.

Following her death, Resident A’s daughter, Ms 2, made a safeguarding complaint to the Care Quality Commission (“CQC”) and Resident A’s death was referred to the Coroner. The Coroner concluded Resident A’s death was due to natural causes.

In preparation for the Coroner’s Inquest, Ms 1 completed an audit of Resident A’s care plan. This showed that between February 2018 and March 2018, on more than one occasion, staff at the Home had administered suppositories to Resident A that were not prescribed to her. Although suppositories can be purchased over the counter from a pharmacy, they would usually be prescribed in nursing homes as they can allegedly be quite invasive to administer. Suppositories are not usually the first line of treatment in nursing homes, with oral laxatives being given.

It is alleged that the use of suppositories was not covered by the Home’s Homely Remedies Policy (“the Policy”) at the time of the alleged incidents. The Policy was allegedly in place to allow for some ‘over the counter’ medication to be administered without being prescribed. In addition to this, where medication listed on the Policy is given

regularly, a prescription from a General Practitioner (“GP”) would have allegedly been required.

On the dates the suppositories were allegedly administered to Resident A, they were not prescribed to her, nor was there any mention of their usage included in the Policy. The nurses that allegedly administered suppositories to Resident A (one of these allegedly being Miss Lympéri) are also said to have performed a digital rectal evacuation (“DRE”) on her at the same time. Ms 1 also said that a policy at the Home would have expected Miss Lympéri to have discussed this situation with Resident A’s daughter prior to taking the above actions, but this was allegedly not done.

It is also alleged that whilst the nursing staff were trying to resolve Resident A’s problems revolving around her constipation, the GP, despite being involved in Resident A’s care on a regular basis, was not made aware of the specific issues until much later. At the point Dr 3 prescribed Bisacodyl to Resident A, the administration of glycerine suppositories was not documented as having been discussed.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took account of all the oral and documentary evidence adduced, together with the submissions made by Ms Leathem, on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Miss Lympéri.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Ms 1: Care Manager at the Home around the time of the events
- Ms 2: Resident A's daughter
- Dr 3: GP at Loomer Road Surgery around the time of the events, where the Home had registered its residents

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

The panel then considered the disputed charges and made the following findings.

Charge 1

1. Administered medication to Resident A, when it was not prescribed, on one or more of the following dates:
 - 1.1 5 March 2018
 - 1.2 On or around 13 March 2018
 - 1.3 18 March 2018

These charges are found proved.

In reaching this decision, the panel took account of the evidence of Ms 1, Ms 2 and Dr 3.

The panel had regard to the oral evidence of Ms 1 and Dr 3, both of whom confirmed that Resident A had not been prescribed suppositories on 5 March 2018, on or around 13 March 2018, and on 18 March 2018. Ms 1 also told the panel that suppositories were not on the agreed drugs listed in the Policy enabling staff to administer them without being prescribed at the time of the incidents. Whilst suppositories are an '*over the counter*' medication, Ms 1 had stated that, due to the invasive nature of the administration, it is not uncommon for them to be prescribed before administering.

The panel had sight of Resident A's notes which confirmed that Miss Lympéri had administered suppositories to Resident A on 5 March 2018, on or around 13 March 2018, and on 18 March 2018. The panel noted that Miss Lympéri does not appear to contest administering suppositories to Resident A on these dates, as she seems to admit doing so in her response to the NMC on 14 April 2020. Miss Lympéri contends that she made the decision to administer suppositories to Resident A based on outdated guidance from the Policy. She also states that a change in the Policy was not filtered down to her or her colleagues and the practice was a common one in the Home. The panel noted that in her oral evidence, Ms 1 was honest in her concession that the way the Policy change was communicated may not have been robust, she nonetheless confirmed that it was communicated orally to the nursing team. In any event, the panel noted that Ms 1 stated that each unit on the Home would have had a copy of the Policy readily available for its staff and, with suppositories not having featured on the Policy for approximately two years by this point, Miss Lympéri should have known that administering suppositories without them being prescribed was inappropriate.

In taking account of the above, the panel was satisfied that Miss Lympéri administered medication to Resident A, when it was not prescribed, on 5 March 2018, on or around 13 March 2018, and on 18 March 2018.

The panel found charges 1.1, 1.2 and 1.3 proved on the balance of probabilities.

Charge 2

2. In respect of one or more of the dates in charge 1 above, failed to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository to Resident A in that you did not involve Resident A's daughter in the decisions to carry out those procedures and/or administrations

This charge is found proved.

In reaching this decision, the panel took account of the evidence of Ms 1, Ms 2 and Dr 3.

The panel noted that in order to determine whether Miss Lympéri *'failed'* to do something, a duty must first be established.

In considering whether there was a duty imposed on Miss Lympéri to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository, the panel had regard to the evidence of Ms 1, who stated that consent would have been required before this task is performed. The panel agreed that there would have been an expectation that a registered nurse would have obtained informed consent due to the invasive nature of these treatments. Therefore, as a registered nurse responsible for Resident A's care, the panel determined that there was a duty imposed on Miss Lympéri to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository to Resident A.

The panel noted that there is evidence in Resident A's care plan that Miss Lympéri and another registered nurse had previously obtained consent from Resident A when performing a digital removal of faeces, which confirmed that this may have been common practice at the Home, but also indicated that Miss Lympéri would have been aware of this requirement. In contrast to the above, there is no reference to consent being obtained in the entry by Miss Lympéri on 5 March 2018 or 18 March 2018 in relation to the digital removal of faeces. Furthermore, on 10 March 2018, there is an entry in Resident A's notes

from another registered nurse stating that she had refused a suppository and a rectal examination on that date, which could give an indication as to Resident A's state of mind around 12 March 2018.

Ms 2, in her oral evidence, told the panel that she was not aware that suppositories were being administered to Resident A until Resident A notified her of this herself. The panel noted that in Resident A's care plan on 8 February 2018 and 11 March 2018, Resident A was able to make simple decisions, but more complex ones would require Ms 2 to be involved. There is no reference within any of the care plan notes to indicate that any of Resident A's family members were consulted in relation to undertaking a digital removal of faeces and/or administering a suppository. The panel was of the view that the absence of such a record was indicative of a discussion not having taken place.

In taking account of the above, the panel was satisfied that Miss Lympéri had failed to obtain informed consent to undertake a digital removal of faeces and/or administer a suppository to Resident A, in that she did not involve Resident A's daughter in the decisions to carry out those procedures and/or administrations on 5 March 2018, on or around 13 March 2018, and on 18 March 2018.

The panel found charge 2 proved on the balance of probabilities.

Charge 3

3. Failed to provide safe care to Resident A, in that you did not advise her GP that Resident A remained constipated, despite being prescribed laxatives.

This charge is found proved.

In reaching this decision, the panel took account of the evidence of Ms 1, Ms 2 and Dr 3.

The panel noted that at the point of being discharged from hospital and entering the Home, Resident A was prescribed laxatives. It noted that there appeared to be an ongoing issue with Resident A's continence throughout her period of time at the Home.

The panel considered there to be a duty imposed on Miss Lymperi to provide safe care to Resident A, as a registered nurse treating her at the Home. Part of providing safe care to Resident A would have included advising the GP that Resident A remained constipated, despite being prescribed laxatives. Ms 1 gave oral evidence confirming that the appropriate line of action would have been for Miss Lymperi to notify Resident A's GP to see what should happen next.

The panel noted that there are entries in Resident A's care plan that had been completed by Miss Lymperi with her stating that Resident A's bowels had not opened for a number of days on more than one occasion and, during this time, she makes no mention of her consulting a GP. The panel noted that the first significant involvement from the GP in relation to addressing Resident A's continence issues appear to be on 16 March 2018, some two months after Resident A was discharged from hospital. The panel was aware that Dr 3 was a frequent presence at the Home arising from his ward rounds on Friday mornings, so it considered there to have been ample opportunity for Miss Lymperi to have raised this matter with him at some point during his visits.

Dr 3 gave oral evidence that if the oral laxatives had not worked, then it may be an indication that the bowel was blocked and that he may have needed to refer Resident A for further exploratory procedures.

In taking account of the above, the panel was satisfied that Miss Lymperi had failed to provide safe care to Resident A, in that she did not advise her GP that Resident A remained constipated, despite being prescribed laxatives.

Therefore, the panel found charge 3 proved on the balance of probabilities.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Lympéri's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. Firstly, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Lympéri's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In her submissions, Ms Leathem referred the panel to the case of *Roylance v GMC (No. 2) [2000] 1 AC 311* which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances'. She also referred the panel to the cases of *Calhaem v GMC [2007] EWHC 2606 (Admin)* and *Nandi v GMC [2004] EWHC 2317 (Admin)*.

Ms Leathem invited the panel to take the view that Miss Lympéri's conduct amounted to breaches of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) ("the Code"). She then directed the panel to specific paragraphs and

identified where, in the NMC's view, Miss Lympéri's acts and omissions amounted to misconduct.

Ms Leathem submitted that the clinical concerns identified are serious and lasted for a sustained period of time, particularly in respect of Resident A being administered unprescribed suppositories.

Ms Leathem submitted that as a registered nurse, Miss Lympéri had a responsibility to ensure that she provided safe and effective care to Resident A. However, she submitted that by virtue of Miss Lympéri's acts and omissions, this was not done.

Ms Leathem submitted that in administering unprescribed medication to Resident A, failing to obtain informed consent to undertake certain invasive procedures and/or administrations, and in not advising Resident A's GP that she remained constipated, despite being prescribed laxatives, Miss Lympéri had exposed a vulnerable person to a significant risk of harm.

Ms Leathem submitted that Miss Lympéri had failed to follow accepted policies and protocols in place at the Home. She submitted that concerns around '*consent*' are a major consideration in respect of care delivered at nursing homes, and that residents need to reserve the right to refuse treatment. In failing to involve interested persons in decisions pertaining to certain aspects of Resident A's care, Ms Leathem submitted that Resident A's dignity had the potential to be compromised.

Miss Leathem submitted that all of the above had the potential to be detrimental to the health and wellbeing of Resident A. She submitted that Miss Lympéri's nursing practice fell below the standards expected of a registered nurse.

Submissions on impairment

Ms Leathem moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. She referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant [2011] EWHC 927 (Admin)*.

Ms Leathem submitted that Miss Lympéri has put residents in her care at an unwarranted risk of harm. She submitted that Miss Lympéri has also breached fundamental tenets of the nursing profession and has brought the nursing profession into disrepute through her acts and omissions.

Ms Leathem submitted that the panel will need to consider whether Miss Lympéri has demonstrated a sufficient level of insight into her conduct and decide whether she now fully appreciates the extent of her shortcomings. Ms Leathem referred the panel to the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* and invited it to determine whether Miss Lympéri's conduct is capable of remediation, whether it has been remediated, and whether her actions are likely to be repeated in future.

Ms Leathem submitted that in a written response to the NMC, Miss Lympéri had stated that she believed that she had acted in line with accepted practices at the Home in administering medication. However, in hindsight, she recognises that her practices were outdated, and that she subsequently changed her practice. Ms Leathem submitted that whilst Miss Lympéri had also stated that she had undertaken training at the Home to address the medication concerns, evidence of this has not been provided.

Ms Leathem reminded the panel that the RCN (who were acting for Miss Lympéri at that time) had notified the NMC on 14 July 2021 that she is now living overseas, and that she will be disengaging from the NMC process due to her health condition. Ms Leathem

submitted that due to the above circumstances, Miss Lymperi has not sought to provide the NMC with any recent evidence of insight, remorse or remediation. She submitted that Miss Lymperi has not provided any evidence of her having strengthened her practice in relation to the areas of concern.

Ms Leathem submitted that there is nothing before the panel to suggest that Miss Lymperi now has a sufficient level of insight, or that she has now fully remediated her nursing practice to say that the incidents would be unlikely to be repeated. As such, Ms Leathem submitted that there are outstanding public protection concerns which need to be addressed.

Furthermore, Ms Leathem submitted that there is a public interest in finding Miss Leathem currently impaired, as the public would expect registered nurses on the NMC register to uphold its integrity and to meet the required standard of safe and effective nursing practice. She submitted that, in the NMC's view, public interest in the nursing profession and in the NMC as its regulator would be undermined if a finding of current impairment was not made.

Therefore, Ms Leathem invited the panel to find that Miss Lymperi's fitness to practise as a registered nurse is currently impaired on the grounds of public protection and public interest.

Decision and reasons on misconduct

The panel heard and accepted the advice of the legal assessor which included reference to a number of relevant judgments.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Miss Lymperi's acts and omissions did fall significantly short of the standards expected of a registered nurse, and it considered them to amount to several breaches of the Code. Specifically:

"1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

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

To achieve this, you must:

3.1 pay special attention to promoting wellbeing, preventing ill-health and meeting the changing health and care needs of people during all life stages

4 Act in the best interests of people at all times

To achieve this, you must:

4.1 balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment

4.2 make sure that you get properly informed consent and document it before carrying out any action

4.3 keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process

6 Always practise in line with the best available evidence

To achieve this, you must:

6.2 maintain the knowledge and skills you need for safe and effective practice

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

13.2 make a timely referral to another practitioner when any action, care or treatment is required

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

To achieve this, you must:

18.3 make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or treatment they are receiving, including (where possible) over-the-counter medicines

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.2 take account of current evidence, knowledge and developments in reducing mistakes and the effect of them and the impact of human factors and system failures

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

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress”

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, in these circumstances, the panel decided that Miss Lymperi’s acts and omissions fell significantly short of the standards expected so as to justify a finding of misconduct.

The panel considered the concerns identified to be serious and noted that the concerns relate directly to Miss Lymperi's clinical nursing practice.

The panel was of the view that Miss Lymperi had exposed Resident A to a risk of significant harm.

Miss Lymperi had administered unprescribed medication to Resident A on more than one occasion. The panel noted that Ms 1 had conceded that the medication change to the Policy could have been communicated in a better manner towards staff. She nonetheless assured the panel that this would also have been covered through annual mandatory training. In any event, the panel considered it to be Miss Lymperi's duty to remain up to date with policies in place at the Home as a registered nurse working on the Wing.

Furthermore, the panel had found that Miss Lymperi had failed to obtain informed consent to undertake certain invasive procedures and/or administrations, and had not advised Resident A's GP that she remained constipated, despite being prescribed laxatives. Ms 2 and Dr 3 both gave evidence to say that they were not kept informed of Resident A's continued constipation, despite both of them being in regular attendance on the Wing. Therefore, the panel considered there to have been multiple opportunities for Miss Lymperi to have updated them as to what was happening. The panel noted that this was particularly upsetting for Ms 2, who wanted to be involved in respect of the care delivered to her mother. The panel considered obtaining '*informed consent*' to be an important factor in the care of Resident A; such a decision has the potential to compromise a resident's dignity and basic human rights.

The panel noted that, in his oral evidence, Dr 3 had told it that suppositories would not be required alongside a digital rectal evacuation and that they would have been ineffective. Had Dr 3 been made aware that laxatives were not working for Resident A, he may have considered a different plan of management.

The panel was of the view that other registered nurses would consider Miss Lymperi's actions to be deplorable in the particular circumstances of this case.

The panel found that Miss Lymperi's acts and omissions in charges 1.1, 1.2, 1.3, 2 and 3 did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the misconduct, Miss Lymperi's fitness to practise is currently impaired.

Registered nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust registered nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of Grant in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...*

The panel considered limbs a, b and c to be engaged in this case. It determined that Miss Lympéri had exposed residents in her care to an unwarranted risk of harm, had acted in a way that would have brought the nursing profession into disrepute, and had breached fundamental tenets of the nursing profession.

In considering whether Miss Lympéri has addressed the deficiencies in her nursing practice, the panel considered the factors set out in Cohen. Whilst the panel considered Miss Lympéri's misconduct to be capable of remediation, the panel had no evidence before it of her having done so.

Miss Lympéri had provided a response to the NMC earlier in the process, but the panel did not consider this to sufficiently address the concerns it has gone on to identify. Miss Lympéri had appeared to accept that, in hindsight, she had acted outside of the Policy in respect of administering unprescribed suppositories to Resident A, but she did not know

this at the time. Nonetheless, there was no evidence of Miss Lymperi having strengthened her nursing practice through retraining, despite her assurances, and there was limited evidence to demonstrate that Miss Lymperi now has a sufficient level of insight into what went wrong, and how her own nursing practice fell below expected standards. There was a lack of consideration given as to the risk Miss Lymperi had exposed Resident A to, or how her conduct would have adversely impacted upon other residents, colleagues, the nursing profession, and the wider public. There is also no evidence of Miss Lymperi having further reflected since that time and she has now disengaged from the NMC process entirely.

The panel acknowledged Ms Leathem's submission that, upon leaving the Home, Miss Lymperi did go on to work in a different location for a short period of time. However, the panel noted that Miss Lymperi has not sought to provide it with any references attesting positively to her nursing practice from any place of work.

In taking account of all the above, the panel was satisfied that Miss Lymperi had demonstrated a limited amount of insight, remorse and remediation into her misconduct and it considered there to be a real risk of repetition.

The panel had no evidence before it to allay its concerns that Miss Lymperi may currently pose a continuing risk of significant harm to residents in her care, should adequate safeguards not be imposed on her nursing practice. The panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel also bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. It concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. The panel was of the view that a fully informed member of the public would be

concerned by Miss Lymperi's acts and omissions. It determined that, in this case, a finding of impairment on public interest grounds was required.

Having regard to all of the above, the panel was satisfied that Miss Lymperi's fitness to practise is currently impaired on the grounds of public protection and public interest.

Sanction

The panel has considered this case carefully and has decided to make a conditions of practice order for a period of 18 months, subject to review. The effect of this order is that Miss Lymperi's name on the NMC register will show that she is subject to a conditions of practice order and anyone who enquires about her registration will be informed of this order.

Submissions on sanction

Ms Leathem drew the panel's attention to the NMC Sanctions Guidance ("SG"). She submitted that whatever sanction the panel chooses to impose must be proportionate, taking account of the NMC's overriding objective of public protection.

Ms Leathem invited the panel to have regard to the aggravating features which, in the NMC's view, are present in this case. She also invited the panel to take account of any contextual factors which may give rise to mitigation.

Ms Leathem submitted that there have been no previous regulatory findings against Miss Lymperi. Furthermore, she submitted that there have not been any interim restrictions imposed on Miss Lymperi's nursing practice throughout the lifespan of this case.

Ms Leathem submitted that Miss Lymperi's misconduct involved multiple clinical concerns which are serious in nature. She submitted that Miss Lymperi administered unprescribed medication to Resident A on more than one occasion over a two month period, performed procedures without obtaining the appropriate consent and failed to communicate with a GP in respect of Resident A's continued constipation. As such, Ms Leathem submitted that neither no further action or a caution order would be the appropriate and proportionate sanction in this case. She submitted that neither of these outcomes would be sufficient to protect the public or satisfy the public interest elements of the case.

Ms Leathem informed the panel that the NMC sanction bid was communicated to Miss Lymperi in advance of this hearing, that being, a conditions of practice order of between 12 – 18 months, subject to a review before expiry. She submitted that this remains the appropriate and proportionate sanction in the particular circumstances of this case, despite the lack of engagement from Miss Lymperi.

Ms Leathem submitted that a conditions of practice order strikes the appropriate balance between ensuring the public remain sufficiently protected and allowing Miss Lymperi to offer her nursing services, should she wish to do so. Ms Leathem submitted that Miss Lymperi's misconduct is capable of remediation, but she has not attempted to furnish the panel with any evidence of retraining. Furthermore, Ms Leathem submitted that Miss Lymperi has shown a degree of insight in respect of administering unprescribed medication to Resident A, but her overall level of insight is insufficient.

Ms Leathem submitted that, in the NMC's view, the clinical concerns identified are not so serious so as to warrant temporary or permanent removal from the NMC register. However, Ms Leathem submitted that the decision on sanction is entirely a matter for the panel's own independent judgment.

Ultimately though, Ms Leathem submitted that the decision on sanction is entirely a matter for the panel's own independent judgment.

Decision and reasons on sanction

The panel heard and accepted the advice of the legal assessor.

Having found Miss Lympéri'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.

In respect of aggravating factors, the panel has considered the following as relevant:

- Miss Lympéri's misconduct involved the administration of unprescribed medication to Resident A on more than one occasion over a two month period, performing procedures without obtaining the appropriate consent and failing to communicate with a GP in respect of Resident A's continued constipation.
- A vulnerable resident in Miss Lympéri's care was exposed to a risk of unwarranted harm.
- Miss Lympéri has only demonstrated limited insight.

In respect of mitigating factors, the panel has considered the following as relevant:

- The Wing was a busy working environment, as stated by Ms 1.

The panel acknowledged Ms Leathem's submission that Miss Lympéri has not had any previous regulatory findings against her, nor has she been restricted on an interim basis in relation to this matter.

The panel first considered whether to take no action but concluded that this would be wholly inappropriate in view of the seriousness of this case. Taking no further action would

place no restriction on Miss Lympéri's nursing registration, and would therefore not protect the public. Furthermore, the panel determined that it would not address the public interest concerns identified.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 was of the view that Miss Lympéri's misconduct was not at the lower end of the spectrum of fitness to practise, so it determined that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing a conditions of practice order on Miss Lympéri's nursing registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel was of the view that a conditions of practice order could be formulated to address the outstanding public protection and public interest elements of this case. Whilst it considered Miss Lympéri's misconduct to be serious, it noted that her acts and omissions relate solely to her clinical nursing practice and, were therefore, capable of remediation. Whilst the panel was aware that Miss Lympéri has disengaged entirely from the NMC at the current time, it determined that should she be in a position to return to nursing, she could be able to continue practising as a registered nurse. The panel noted that it had found Miss Lympéri's insight to be limited at the impairment stage. However, at the point that she disengaged with the NMC, she had begun to understand how the administration of unprescribed medication to Resident A had fallen below expected standards associated with safe and effective nursing practice. In light of this, the panel did not find Miss Lympéri to have an underlying attitudinal concern.

In taking account of the above, the panel was satisfied that the concerns identified could be addressed by way of a conditions of practice order. It determined that Miss Lympéri could work in a clinical nursing environment with the imposition of appropriate safeguards in place, should she wish to do so.

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

The panel did consider whether imposing a suspension order would be appropriate but determined that this sanction would be disproportionate in this case. It determined that the lesser sanction of a conditions of practice order was sufficient to address the public protection and public interest concerns.

Taking account of the above, the panel decided that public confidence in the nursing profession and in the NMC as regulator can be maintained without Miss Lympéri being temporarily removed from the NMC register. The panel noted that as of 14 July 2021, Miss Lympéri had moved overseas to focus on addressing her health. Nonetheless, the panel was of the view that should Miss Lympéri feel sufficiently well enough to return to the UK and the nursing profession, she should be afforded the opportunity to work as a registered nurse subject to conditional registration. During this time, Miss Lympéri will be able to demonstrate that she understands the severity of her acts and omissions to a future reviewing panel, and provide it with evidence of retraining. The panel had identified that there was a risk of repetition in the absence of any evidence to the contrary.

Furthermore, the panel considered a striking-off order to be wholly disproportionate, having regard to all the evidence received. It determined that Miss Lympéri's misconduct was not so serious so as to be incompatible with ongoing registration. The panel was satisfied that the circumstances in this case plainly justified a different course of action to removing Miss Lympéri entirely from the nursing profession.

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 determined 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 send your NMC case officer evidence that you have successfully completed the following training:*
 - a) *safeguarding for vulnerable adults*
 - b) *medication administration*
 - c) *mental capacity act*
 - d) *informed consent*
 - e) *maintaining dignity*
 - f) *continence*
 - g) *identification and escalation of ill patients*

2. *You must work with your line manager, mentor, or supervisor to create a personal development plan ("PDP") and meet with them at least every four to six weeks. Your PDP must address the concerns about:*
 - a) *safeguarding for vulnerable adults*
 - b) *medication administration*
 - c) *mental capacity act*
 - d) *informed consent*
 - e) *maintaining dignity*

- f) *continence*
 - g) *identification and escalation of ill patients*
3. *You must send your NMC case officer a copy of your PDP prior to the review hearing, as well as a report from your line manager, mentor, or supervisor demonstrating 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.*
 - 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 18 months. The panel determined that this length of time was sufficient as it would allow Miss Lympéri to make a full recovery, take account of the panel's reasons, and find suitable employment.

Before the order expires, a panel will hold a review hearing to see how well Miss Lympéri has complied with the conditions of practice 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 may be assisted by:

- Miss Lympéri's engagement with the NMC.
- Miss Lympéri's attendance at a future review hearing or, an indication as to what her future intentions are.
- A reflective piece using a recognised model (E.g. Gibbs) focusing on the impact Miss Lympéri's actions had on residents, colleagues, the nursing profession and the wider public, as well as what steps she would take to prevent her misconduct from reoccurring in future.
- Any evidence of Miss Lympéri having kept her nursing skills up to date.
- Any recent references or testimonials from Miss Lympéri having safely worked in a clinical environment, whether in paid or unpaid employment.

Interim order

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or is in Miss Lymperi's own interest until the conditions of practice order takes effect.

Submissions on interim order

Ms Leathem submitted that whilst Miss Lymperi has indicated that she is not going to return to the nursing profession, were she to change her mind and appeal this decision, she would currently be able to work as a registered nurse without any restriction until the appeal is heard and the substantive order takes effect.

Ms Leathem invited the panel to impose an interim conditions of practice order for a period of 18 months. She submitted that this interim order is necessary on the grounds of public protection and it being in the public interest.

Decision and reasons on interim order

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 Miss Lymperi's misconduct, and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would be appropriate and proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. Owing to the seriousness of the misconduct in this case, along with the risk of repetition identified, it determined that Miss Lympéri's acts and omissions were sufficiently serious to justify the imposition of an interim conditions of practice order until the substantive conditions of practice order takes effect. In the panel's judgment, public confidence in the regulatory process would be undermined if Miss Lympéri was permitted to practise as a registered nurse without restriction prior to the substantive order coming into effect.

The panel concluded that the only suitable interim order would be that of an interim conditions of practice order, in the same terms, as to do otherwise would be incompatible with its earlier findings.

The panel therefore imposed an interim conditions of practice order for a period of 18 months.

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 Miss Lympéri is sent the decision of this hearing in writing.

This decision will be confirmed to Miss Lympéri in writing.

That concludes this determination.