

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

**Substantive Order Review Hearing
Tuesday, 30 April 2024**

Virtual Hearing

Name of Registrant: Asha Ahmed

NMC PIN: 15G0007E

Part(s) of the register: Registered Midwife - September 2015

Relevant Location: Kirklees

Type of case: Lack of competence

Panel members: Rachel Robertson (Chair, Lay member)
Hannah Harvey (Registrant member)
Catherine Devonport (Registrant member)

Legal Assessor: Gerard Coll

Hearings Coordinator: Monowara Begum

Nursing and Midwifery Council: Represented by Ben Edwards, case presenter

Mrs Ahmed: Present and not represented at the hearing

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect on 12 June 2024
in accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 12 June 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fourth review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 14 May 2020. This was reviewed on 20 April 2021, 6 May 2022 and 24 April 2023 where all three panels extended the suspension order for a further 12 months.

The current order is due to expire at the end of 12 June 2024.

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

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

'That you, a registered midwife:

1) During the period of your employment with the Calderdale & Huddersfield Trust as a midwife

a) Were unaware of the procedure for priming a line before attaching an IV line to a patient b) Failed to monitor baby A's blood sugar correctly c) On 17 January 2016 in relation to baby B:

i) Failed to properly document the blood sugar monitoring that you had conducted ii) Failed to correctly monitor their temperature iii) Failed to provide the mother the correct calculation for formula milk

iv) Failed to advise of correct procedure for sterilisation of feeding equipment d) On 17 January 2016 in relation to patient C:

i) Failed to identify the correct dose of syntocinon

ii) Failed to demonstrate the correct procedure for administering IV medication 15

e) On 13 January 2016 in respect of baby D:

i) Used a 'milking' technique to extract blood

ii) Obtained inaccurate blood sugar measurements

f) On 13 January 2016 in respect of baby E:

i) Incorrectly documented that [] had completed a second medication check

ii) Failed to document the dose of vitamin administered

g) In respect of baby F:

i) Failed to escalate concerns regarding inability to monitor fetal heartbeat

2) During the period of your employment with the Bradford Teaching Hospitals NHS trust as a midwife

i) Failed to identify a fetal bradycardia on a CTG

ii) Failed to escalate the existence of a fetal bradycardia

iii) During the period 18 June 2017 to 28 June 2017:

i) Failed to maintain infection control by not wearing gloves and / or an apron

ii) Changed incontinence pads without assistance

iii) Documented records on the MEDWAY system using another staff member's details iv) Failed to record baby weight correctly

v) Failed to record maternal age correctly

vi) Failed to complete theatre book correctly

vii) Performed a check on crash trolley unsupervised

viii) Incorrectly recorded presence of drug box on crash trolley during

2(c)(vii) above

ix) Did not provide an adequate handover by omitting patient's BMI from the handover

iv) On 2 July 2017:

h) Did not escalate an unpredictable CTG

- ii) Failed to maintain measurements of a fetal heartbeat*
- i) Maintained you had used a sonicaid to measure a fetal heart beat when you had not v) On 3 July 2017:*
 - i) Inappropriately moved patient F onto her knees*
 - ii) Inappropriately allowed patient F to leave her bed*
 - vi) Prior to a second check vaginal examination failed to advise Laura Duxbury Green that patient G had a latex allergy*
 - vii) Failed to work under supervision as directed by the Trust or their employees.'*

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

'The panel considered whether your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had good insight. At this hearing you have been able to provide some information on how you can improve your competence.

In relation to remediation, the panel was of the view that your failings are matters which, ordinarily, could be capable of remediation. It considered that you have not worked as a registered midwife since 2017 and therefore determined that there is no evidence for it to indicate that you have remediated the deficiencies in your practice or now possess the necessary knowledge, skill, and judgement to practice safely as a midwife.

In light of this, this panel determined that you remain liable to repeat matters of the kind found proved. The panel therefore decided that a finding of current impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of current impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.'

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

'The panel next considered whether a conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest at this stage.

The panel took into account that you have not practiced as a midwife since 2017 and have no firm plans to return to practice.

The panel was therefore not able to formulate conditions of practice that would adequately address the concerns relating to your lack of competence.

The panel considered the imposition of a further period of suspension.

The panel determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months which would provide you with an opportunity to engage with the NMC to find a workable way of returning to the midwifery profession.

The panel considered whether, given the period of time that has elapsed since the original concerns, a striking off order was appropriate. On balance, It felt that a further period of a year's suspension will provide you with sufficient time to finalise your future plans and demonstrate progress to a future reviewing panel.'

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise is currently impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. *'The question that will help decide whether a professional's fitness to practise is impaired is:*

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

In considering this case, the panel has carried out a comprehensive review in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle and responses from you. It has taken account of the submissions made by Mr Edwards on behalf of the NMC and the submissions made by yourself.

Mr Edwards outlined the background to the case and referred the panel to the relevant parts of the bundle. He submitted that your fitness to practice is currently impaired. He submitted that the previous panel suggested that a future panel would benefit from evidence from you engaging with the NMC and the higher education institutions to ascertain possible routes back into practise which was your stated plan. He submitted that it has been almost four years since the original order was imposed and there has been no meaningful progress made within this time. He submitted that the previous panels have been renewing and extending the suspension order in order to allow you time to find a

route back to practise and to engage further with the NMC and higher education institutions.

Mr Edwards submitted that the previous panel was of the view that your failings could be capable of remediation and that you have not worked as a registered midwife since 2017, and therefore determined that there was no evidence for it to indicate that you had remediated the deficiencies in your practise. He submitted that you are currently not working as a registered midwife and have not been able to show or put forward any evidence that you are able to practise safely and effectively to the standards expected. He submitted that you have not remediated the concerns that led to the sanction being imposed.

Mr Edwards submitted that you have not shown any progress in the last 12 months and your case has been ongoing for a considerable amount of time. Therefore, it is not in the public interest to continually extend the order for no progress to be made in time for the next review. He submitted that it is a waste of public money and that it is not in the public interest to review or extend an order for nothing to happen in the interim, and members of the public would expect appropriate action to be taken where no progress has been made.

Mr Edwards submitted that the last reviewing panel asked you to provide evidence of engaging with the NMC and a higher education institution to find a clear route to return to midwifery practise, however there is no such evidence put before the panel today.

Mr Edwards submitted that conditions of practice would not be appropriate as you have shown a lack engagement with the NMC other than attending hearings, and a lack of progress and therefore it cannot be confident you would be able to satisfy any conditions that may be formulated in order to demonstrate to a future panel that you can work safely and effectively. He therefore invited the panel to replace the suspension order with a striking off order.

The panel also had regard to your oral submissions.

You told the panel that you take everything on board and are conscious of the fact that you have not practised as a registered midwife in a long time. [PRIVATE] this has given you

more time to take on a full-time job since October 2023. You told the panel that you were trialling going back full time and have realised that going back full time is still too early for you. You told the panel you still need more time before returning to practising as a midwife [PRIVATE].

You told the panel that you have done short courses online in the past but not since the last review. You planned to do breastfeeding support over the last year, but due to the cost-of-living crisis you have had to take on a full-time job and have not had time to do anything in relation to your midwifery practise.

You told the panel that you would like to continue with the suspension order. You submitted that you have done some research on ways of returning to practise and have looked at the test of competence and are planning to do it sometime this year. You told the panel you have spoken to other midwives to get a feel of what the environment is like now, in terms of support from mentors. You told the panel you hard worked really hard to qualify as a midwife and it has been hard to come to terms with not being able to practise. You told the panel you do not want to make the same mistakes, hence why you are pacing yourself slowly before you return to practise. You told the panel you would realistically only work in your local Trusts as working in Trusts further away adds more pressure [PRIVATE].

You told the panel that you plan to do the Test of Competence and then see if a Trust would support you to work in their Trust, not as a midwife, but in general to gain your confidence. You told the panel you have considered going back to the university you qualified in and asking them to help you make a plan as they no longer offer a return to practise course.

You said you were currently incompetent and that you needed time and to pace yourself slowly.

You told the panel that if they do decide on a striking off order, you would go and research how long it would be before you can go back on the register, and you have already looked at roles you can go back into, not necessarily as a midwife, but roles that require a NMC registration.

You told the panel this is a very emotional stage for you as you did not work hard to qualify as a midwife only to practise for less than a year. You told the panel that you would not want a condition of practise order as you are not ready yet.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had good insight. At this hearing you made admissions at the outset of the hearing, and you demonstrated an understanding of your ongoing lack of competence. You provided insight into the risks of harm in your actions.

The last reviewing panel determined that if you were to practise without restriction, you were liable to repeat matters of the kind found proved. Today's panel has heard no new information put before it today to suggest the risks had increased or decreased. It noted that you have not worked as a midwife since 2017 and over the last four years you have not made any progress in seeking to return to practise or shown any evidence of remediation. There is no evidence that you now possess the necessary knowledge, skills or judgment to practise kindly, safely and professionally. It noted that you have considered steps that can be taken and courses you can undertake to strengthen your practise in terms of voluntary work and education but do not have any firm plans in place. The panel also noted that in today's hearing you have made admissions accepting you are still incompetent. In light of this, this panel determined that you are liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and

upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.

Decision and reasons on sanction

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

The panel first considered whether to take no action but concluded that this would be inappropriate as there are wide-ranging deficiencies in your practise which raise public protection concerns. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your 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 your lack of competence was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order would be a sufficient and appropriate sanction. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and agreed with the previous reviewing panels that there are no conditions that can be formulated that would be workable to adequately protect the public or satisfy the public interest. The panel took into account that you have

not practised as a midwife since 2017, having only worked for eight months after qualifying, and have no firm plans to return to practice. The panel noted that you said you are not ready and do not feel confident to go back into practising and need time to rebuild your confidence and knowledge. The panel was therefore not able to formulate conditions of practice that would adequately address the concerns relating to your lack of competence.

The panel next considered imposing a further suspension order. The panel considered you had limited insight into the significant steps that would be required to strengthen your practice and remediate the failings. It noted that the failings are wide-ranging fundamental deficiencies in basic midwifery practise. It noted that considerable amount of time has lapsed, and you had been given a number of opportunities to remediate but have not done so. The panel recognised that [PRIVATE] which may have previously restricted the time you had to take action to remediating your failings. However, you confirmed [PRIVATE] you have been able to work full-time since October 2023. The panel determined that a further period of suspension would not serve any useful purpose, taking into account the previous four years of extending the order with no real progress made by you to remediate your failings.

The panel recognises that one view of the public interest is that the register should retain members who are capable of making a positive contribution towards public safety and patient care, even subject to restrictions. In this case the panel was not satisfied that this was made out. You had not satisfied the panel that your intentions to remain on the register were supported by a clear, immediate, concrete, and purposeful pathway to a safe and kind return to practice, even in a phased and gradual way.

In this case, the panel was not persuaded that your desire to remain on the register subject to a continued suspension order was no longer a practical means of achieving public protection.

In these circumstances, the panel considered that the only possible means now available of protecting the public and maintaining the trust and confidence of the public in the profession and the regulator, was to make a striking off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 12 June 2024 in accordance with Article 30(1).

This decision will be confirmed to you in writing.

That concludes this determination.