

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

**Substantive Order Review Hearing
Monday, 11 November 2024**

Virtual Hearing

Name of Registrant: Sophie Addo

NMC PIN 99A0620E

Part(s) of the register: Registered Nurse – Adult
Effective – 14 March 2002
Registered Midwife
Effective – 14 March 2005

Relevant Location: London

Type of case: Misconduct

Panel members: Louise Fox (Chair, Lay member)
Sarah Fleming (Registrant member)
Anne Phillimore (Lay member)

Legal Assessor: Emma Boothroyd

Hearings Coordinator: Emma Norbury-Perrott

Nursing and Midwifery Council: Represented by Simon Gruchy, Case Presenter

Miss Addo: Not Present and unrepresented at the hearing

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

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect at the end of 19 December 2024 in accordance with Article 30(1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Addo was not in attendance and that the Notice of Hearing had been sent to Miss Addo's registered email address by secure email on 11 October 2024.

Further, the panel noted that the Notice of Hearing was also sent to Miss Addo's representative on 11 October 2024.

Mr Gruchy on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Addo'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 Addo has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Addo

The panel next considered whether it should proceed in the absence of Miss Addo. The panel had regard to Rule 21 and heard the submissions of Mr Gruchy who invited the panel to continue in the absence of Miss Addo. He submitted that Miss Addo had voluntarily absented herself.

Mr Gruchy submitted that there had been no engagement at all by Miss Addo with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Addo. In reaching this decision, the panel has considered the submissions of Mr Gruchy, and the advice of the legal assessor. There were no submissions provided by Miss Addo for the panel to consider. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Addo;
- Miss Addo has not engaged with the NMC since the substantive hearing and has not responded to any of the letters sent to her about this hearing;
- Miss Addo has not provided the NMC with details of how she may be contacted other than her registered address;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Addo.

Decision and reasons on review of the substantive order

The panel decided to replace the current conditions of practice order with a suspension order for a period of six months.

This order will come into effect at the end of 19 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 21 November 2023.

The current order is due to expire at the end of 19 December 2024.

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

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

'That you, a Registered Midwife, whilst working at Newham University Hospital ('the Hospital'):

Patient B

- 1) *On night of 18/19 July 2016, in relation to Patient B:*
 - a) ...
 - b) ...
 - c) ...
 - d) ...
 - e) ...
 - f) ...
 - g) ...
 - h) *Having documented that the CTG was pathological at 04:15:*
 - i) *failed to escalate Patient B's care / record such escalation; **Found Proved***
 - ii) *increased the syntocinon to 50mls an hour / failed to discontinue syntocinon; **Found Proved***
 - i) ...
 - j) ...

Patient A

- 2) ...
 - a) ...
 - b) ...
 - c) ...
 - d) ...
 - e) ...
 - f) ...
- 3) ...
- 4) ...
- 5) ...
 - a) ...
 - b) ...
 - c) ...
- 6) ...

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

The original panel determined the following with regard to impairment:

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'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.'

Midwives occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust midwives with their lives and the lives of their loved ones. To justify that trust, midwives must be honest and open and act with integrity. 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. At 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.'

At 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) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that a mother and baby were put at risk and were caused physical and emotional harm as a result of Miss Addo's misconduct. Miss Addo's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Dishonesty did not apply in this case.

Regarding insight, the panel considered Miss Addo's willingness to improve by sitting the CTG test, although she did not meet the required standard. However, due to the lack of evidence provided around how this was engaged with, the procedures to go through to do it, or any personal matters or effects this had on her, the panel did not take it into account in respect of impairment, because although she failed the test, this does not necessarily make her currently impaired.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Addo has taken steps to strengthen her practice. The panel took into account the written submissions of Mr Walker and the training Miss Addo had previously undertaken. However, the panel had not been presented

with any further recent evidence that Miss Addo had strengthened her practice. It noted that she had practised safely for a long period of time. However the incident was serious, and Miss Addo has not provided any evidence that reassures the panel that she understands the reasons behind her misconduct.

The panel is of the view that there is a risk of repetition based on the absence of any evidence of insight, remediation, and retraining. The panel determined that Miss Addo was liable to put the profession into disrepute. The panel noted that Miss Addo had stated that she had retired and did not intend to return to practice, however there is no concrete evidence around this and given that she had retired previously and returned to practice, she may do this again. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because an informed member of the public aware would be surprised to know that a finding of impairment were not made in the circumstances given the seriousness of the fact found proved.

Having regard to all of the above, the panel was satisfied that Miss Addo's fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

'The panel first considered whether to take no action but concluded that this 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 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 Miss Addo'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 Miss Addo'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 Miss Addo'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 had regard to the fact that these incidents happened a long time ago and that, other than these incidents, Miss Addo has practised as a midwife for many years without any regulatory concerns. The panel was of the view that it was in the public interest that, with appropriate safeguards, Miss Addo should be able to return to practise as a midwife.

Balancing all of these factors, the panel determined 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 Miss Addo's case because the areas of concern identified are capable of being addressed through retraining.

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 midwife.

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. *Until you are assessed by your line manager or supervisor as competent in the areas listed below, you must ensure that you are being directly supervised by a registered midwife band 6 or above any time you are working:*
 - *CTG training and analysis*
 - *Escalation of care*
 - *Drugs administration*
 - *Record keeping*

2. *You will send your case officer evidence that you have successfully been assessed as competent in the following areas:*
 - *CTG training and analysis*
 - *Escalation of care*
 - *Drugs administration*
 - *Record keeping*

3. *You must keep a reflective practice profile. The profile will include:*
 - a) *Detail of cases where you demonstrate competencies in the areas outlined above.*
 - b) *Set out the nature of the care given.*
 - c) *Be signed by your line manager or supervisor.*
 - d) *Contain feedback from your line manager or supervisor on how you gave the care. You must send your case officer a copy of the profile every 3 months.*

4. *You must work with your line manager or supervisor to create a personal development plan (PDP). Your PDP must address the concerns about the areas outlined above. You must:*
 - a) *Send your case officer a copy of your PDP before the next review hearing.*
 - b) *Send your case officer a report from your line manager or supervisor before the next review hearing. This report must show your progress towards achieving the aims set out in your PDP.*

5. *You must engage with your line manager or supervisor on a frequent basis to ensure that you are making progress towards aims set in your personal development plan (PDP), which include:*
 - a) *Meeting with your line manager or supervisor at least once every month to discuss your progress towards achieving the aims set out in your PDP.*

6. *You must keep us informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*

7. *You must keep us informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*

8. *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.*
9. *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.*
10. *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) *Your line manager or supervisor.*
 - b) *Any current or future employer.*
 - c) *Any educational establishment.*
 - d) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for 12 months with review.

Before the order expires, a panel will hold a review hearing to see how well Miss Addo 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 with another order.

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

- *Engagement with the NMC and attendance at future hearings.*

- *Written statement clarifying whether she intends to retire permanently as a midwife.*
- *Reflective piece addressing the concerns raised.'*

Decision and reasons on current impairment

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

The panel has had regard to all of the documentation before it, including the NMC bundle. There are no submissions from Miss Addo with regard to this review. The panel has taken account of the submissions made by Mr Gruchy on behalf of the NMC. He gave a background of Miss Addo's case, directing the panel to the allegations found proved at the substantive hearing. He submitted that it is the responsibility and burden of the registrant to provide evidence to address the finding of impairment, and with no new information for the panel to consider, it is evident that Miss Addo has not engaged with this responsibility.

Mr Gruchy suggested that Miss Addo has had the opportunity to engage but has chosen not to, perhaps due to Miss Addo not wishing to continue within the registered Midwifery profession. Mr Gruchy stated that Miss Addo currently remains on the register only by virtue of the ongoing proceedings. Mr Gruchy submitted that the panel may decide to give Miss Addo more time to tell the NMC whether she intends to retire, or it may consider it is time for a more robust approach due to her total lack of engagement.

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 Miss Addo's fitness to practise remains impaired.

The panel noted that the original panel found that Miss Addo had not demonstrated effective development in her insight or evidenced the appropriate steps to remedy past failings or strengthen her practice. The panel considered that Miss Addo has disengaged from the process and has not provided any new information or representations for the panel to consider. The panel noted that Miss Addo has not provided any evidence of development of insight or remedial steps, nor has she provided the information recommended by the previous panel. Therefore, the panel had no new information before it to show that Miss Addo was unlikely to repeat the matters found proved by the substantive panel.

This panel agrees with the original panel that the misconduct is capable of remediation with committed engagement from Miss Addo. However, in light of Miss Addo's continued non-engagement, and the absence of evidence of insight or strengthened practice, this panel determined that there is a continued risk that Miss Addo might 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 Miss Addo's fitness to practise remains impaired.

Decision and reasons on sanction

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

The panel considered that to take no further action, or to impose a caution order would be inappropriate as this would not protect the public from the risk associated with any repetition of the misconduct.

The panel then went on to consider if a further conditions of practice order would be appropriate. Miss Addo has not demonstrated any willingness to comply with the conditions of practice set out by the original panel, and nothing is known about her current circumstances or career intentions. In these circumstances the panel concluded that the current conditions of practice are no longer workable as Miss Addo has not demonstrated a willingness to engage with them.

The panel next considered the imposition of a suspension order. It was of the view that a suspension order would allow Miss Addo time to reflect on her future career intentions and whether or not she wishes to seek to remediate and return to her Midwifery career. The panel noted that before she could safely return to practice, Miss Addo would need to demonstrate insight into her actions and their potential impact on the patient, her colleagues and the Midwifery profession, and to demonstrate a willingness to take remedial steps to ensure that those actions would not be repeated.

The panel noted this is the first review of the substantive order and Miss Addo did engage with the substantive hearing. The panel also noted that the failings identified in this case are capable of being remedied. It bore in mind that Miss Addo had practised without regulatory concern for a significant period before this isolated episode which took place on a single shift. It considered that there was no evidence of deep-seated attitudinal issues in this case, and that the failings were not fundamentally incompatible with ongoing registration.

The panel considered allowing the order to lapse upon expiry however, it noted that there was no settled intention put forward by Miss Addo that she wished to leave the profession. The panel concluded that it would be disproportionate at this time to allow the order to lapse upon expiry given Miss Addo's previous engagement with proceedings.

The panel considered a short period of suspension would enable Miss Addo if she so wished, to provide evidence to a future panel to demonstrate a clear and settled intention

to retire from the profession without the necessity of a striking-off order, and the steps she has taken to implement her plans to leave the profession.

In all those circumstances, the panel considered that at this stage, a striking-off order would be disproportionate and inappropriate. It considered that at this stage, the public could be protected, and the wider public interest considerations satisfied, by a lesser sanction, which would give Miss Addo the opportunity for a further period of reflection on how she wishes to proceed. However, the panel wish to advise Miss Addo that if she continues to be disengaged from the process, a future reviewing panel might well consider that a point has come when the situation ceases to be compatible with ongoing registration and removal from the register may be the appropriate outcome.

The panel therefore determined that a suspension order is the appropriate sanction at this stage, which would continue to protect the public and satisfy the wider public interest considerations. Accordingly, the panel has imposed a suspension order for the period of six months, to provide Miss Addo with an opportunity to reflect further and to engage with the NMC. The panel considered that within that period Miss Addo should be able to give a clear indication of whether she wishes to seek to return to her Midwifery career, or whether she has instead decided to leave the profession.

The suspension order will come into effect at the end of 19 December 2024 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

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

- Engagement with the NMC and attendance at future hearings.
- Written statement clarifying whether she intends to retire permanently as a midwife.
- Reflective piece addressing the concerns raised.

- Any evidence of keeping up to date with the Midwifery profession and any relevant training undertaken.

This decision will be confirmed to Miss Addo in writing.

That concludes this determination.