

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

**Substantive Order Review Meeting
Tuesday 19 November 2024**

Virtual Meeting

Name of Registrant: Julia Frances Black

NMC PIN 06F0282E

Part(s) of the register: Registered Midwife – September 2006

Relevant Location: East Sussex

Type of case: Determination by another regulatory body

Panel members: Anthony Mole (Chair, lay member)
Kathryn Smith (Registrant member)
David Anderson (Lay member)

Legal Assessor: Ian Ashford-Thom

Hearings Coordinator: Shela Begum

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect at the end of 20 December 2024 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mrs Black's registered email address by secure email on 14 October 2024.

The panel took into account that the Notice of Meeting provided details of the review, that the review meeting would be held no sooner than 18 November 2024 and inviting Mrs Black to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

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

Decision and reasons on review of the current order

The panel decided to impose a conditions of practice order, in the same form as the current conditions of practice, for a further period of 12 months. This order will come into effect at the end of 20 December 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fourth review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 12 December 2019. This was reviewed on 24 November 2020, when the conditions of practice order was extended for a further 12 months. The conditions of practice order was reviewed on 21 December 2021 where it was extended for a further 24 months. On 13 November 2023, the conditions of practice order was varied and extended for a further period of 12 months.

The current order is due to expire at the end of 20 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:

- 1. Having failed to meet the required standard of competence as a midwife in New Zealand, on 8 September 2017 were made the subject of a 12 month supervision order and an associated competence programme by the Midwifery Council of New Zealand.*

And in light of the above, your fitness to practise is impaired by reason of a determination by a body responsible for the regulation of a health or social care profession other than in the United Kingdom.'

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

"The panel considered whether Mrs Black's fitness to practise remains impaired.

The panel considered that the regulatory concerns in this case are remediable. They relate primarily to issues of clinical competence which are capable of being addressed through further training. The panel noted however that the concerns involved a number of aspects of basic midwifery care, including communication, documentation and record keeping, escalating concerns, recognition of deteriorating women, pre-eclampsia and gestational diabetes.

The panel next considered whether the concerns had been remedied. It took into account the new information Mrs Black provided today in her written statement.

The panel bore in mind that Mrs Black's written statement demonstrates an acceptance of her failings, remorse, and she has shown developing insight.

The panel noted Mrs Black's efforts to secure employment in a midwifery role however these have been unsuccessful. Mrs Black has not been able to provide the

panel with any evidence that she is capable of safe and effective practice and has addressed the failings in her practice.

In these circumstances, the panel considered that Mrs Black remained liable to put patients at risk of harm without further training. The panel considered that a risk of repetition was likely, and therefore determined that a finding of impairment remained 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 midwifery profession and upholding proper standards of conduct and practise. The previous reviewing panel determined that, given Mrs Black's continued engagement with the NMC process and her submission of a comprehensive and thoughtful reflective statement, a finding of continuing impairment on public interest grounds was not required. Today's panel also does not consider a finding of continuing impairment on public interest grounds is required.

For these reasons, the panel finds that Mrs Black's fitness to practise remains impaired on the grounds of public protection alone."

The third reviewing 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 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 Mrs Black's identified failings were 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 on Mrs Black'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 was satisfied that a varied conditions of practice order would be sufficient to protect patients from a risk of harm in the event that Mrs Black completes the RTP course and would be sufficient to maintain confidence in the profession and uphold professional standards. It considered that a conditions of practice order would also provide Mrs Black with a further opportunity to address the identified concerns in her practice.

The panel noted that a number of potential providers of clinical placements have indicated to Mrs Black that they are unable to offer her a place because of the conditions on her registration. However, the panel considered that the conditions were not onerous and were the minimum restriction required to protect the public from the risk of harm identified in this case. It considered that it was necessary to vary the current condition 1 (previously condition 6).

The panel considered that extending the conditions of practice order for a period of 12 months would give Mrs Black sufficient time to continue with her efforts to secure a clinical placement and to apply for a place on a RTP course.

The panel considered whether a suspension order or a striking off order would be an appropriate order in Mrs Black's case but concluded that it would be disproportionate at this time as the concerns are remediable and Mrs Black is continuing to engage and to attempt to secure a midwifery role in order to remedy them.

Accordingly, the panel determined, pursuant to Article 30(1), to impose a conditions of practice order for a period of 12 months from the expiry of the current order. The varied conditions are as follows:

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. *If you undertake a return to practice course, you must send your case officer evidence of successful completion of the course that will include competencies in relation to:*
 - a) *communication;*
 - b) *documentation and record keeping;*
 - c) *escalating concerns;*
 - d) *recognition of deteriorating women, pre-eclampsia; and gestational diabetes*

2. *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.*

3. *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.*

4. *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.*

5. *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;*

6. *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 panel decided to impose the conditions of practice order, with a review, for a period of 12 months.

Any future panel reviewing this case would be assisted by:

- *Evidence of professional development;*
- *testimonials from a line manager or supervisor or university lecturer that detail your current work practices; and*
- *your continued engagement.”*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Black'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.

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

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

The panel considered whether Mrs Black's fitness to practise remains impaired.

This panel noted that the last reviewing panel had regard to a written statement from Mrs Black in which she acknowledged her clinical failings and demonstrated evidence of remorse as well as developing insight. Today's panel did not have any new or up-to-date evidence of further development in Mrs Black's insight, nor did it receive information on the steps she has taken since the last review to fully address the issues identified in this case.

At the last hearing, Mrs Black provided a detailed written statement in which she expressed her intention to return to midwifery practice. She had outlined the various steps taken by her to secure a Return to Practice placement, including multiple applications to NHS trusts and universities, and her ongoing efforts to engage with educational providers. In that statement to the previous panel, Mrs Black also described her willingness to undertake an unpaid placement to demonstrate her commitment to returning to the profession. Additionally, she highlighted her participation in relevant webinars and meetings, further indicating her proactive approach to addressing the concerns raised.

Today's panel noted that Mrs Black has not provided any new information about her current circumstances or updates regarding her efforts since the last review. There were no additional details about further applications, placements, or new professional development activities undertaken since her previous statement in November 2023. As a result, the panel is unable to assess any progress made since the last hearing or determine whether Mrs Black has overcome the barriers preventing her from securing a suitable Return to Practice placement. This panel noted that the conditions of practice order was varied at the last hearing to provide her with the necessary support to achieve this.

At the last review, the panel concluded that Mrs Black had not provided evidence to demonstrate her capability for safe and effective practice, nor had she fully addressed the failings in her practice. In considering whether she has taken steps to strengthen her practice, today's panel noted the absence of any new information on this matter. Today's panel had no new evidence to contradict the previous findings and therefore determined that Mrs Black remains liable to put patients at a risk of harm without further training. The panel concluded that Mrs Black has not yet demonstrated that she is capable of practicing safely and competently. As such, the panel concluded that that a finding of continuing impairment is necessary on the grounds of public protection.

The last reviewing panel determined that, due to Mrs Black's continued engagement with the NMC process and her submission of a comprehensive and thoughtful reflective statement, a finding of continuing impairment on public interest grounds was not necessary. However, today's panel was not satisfied that these factors remained applicable. Mrs Black has not provided any new evidence to demonstrate progress in addressing the failings in her practice, nor has she provided evidence to show that she is capable of practicing safely without further training and supervision. Furthermore, the panel observed that Mrs Black has not engaged with this review, as she has not submitted any updated information or reflections since the last hearing. As such, today's panel concluded that the public interest is now re-engaged in light of the circumstances at this stage.

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 midwifery profession and upholding proper standards of conduct and performance. Given Mrs. Black's lack of engagement and failure to provide evidence of strengthened practice, the panel determined that a finding of continuing impairment on public interest grounds is now required.

For these reasons, the panel finds that Mrs Black's fitness to practise remains impaired on public protection and public interest grounds.

Decision and reasons on sanction

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel concluded that this would not address the public protection issues identified, and it decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Black's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Black's impairment was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

The panel determined that the current conditions of practice remain both appropriate and practical and would continue to address the failings identified in this case. The panel noted that the current conditions of practice were formulated at the last review hearing to assist Mrs Black in securing a Return to Practice placement and provide her with an additional opportunity to address the concerns in her practice. Today's panel noted that no new information has been provided to suggest that Mrs Black has successfully achieved this.

However, given her previous attempts and engagement with the NMC, the panel concluded that it would be reasonable and proportionate to allow her a further opportunity to do so.

The panel concluded that a further conditions of practice order with the current conditions is sufficient to protect patients and the wider public interest. The panel concluded that the current conditions would protect patients from a risk of harm during the period they are in force.

The panel considered that imposing a suspension order or striking Mrs Black's name off the register at this stage would be disproportionate and would not serve a constructive purpose. While the panel noted the lack of information regarding the reasons for Mrs Black's non-engagement with this review, it acknowledged that this is the first instance of such non-engagement. Given the circumstances, the panel concluded that suspending or striking her off the register would not be a reasonable or justifiable course of action at this time.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 20 December 2024. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

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

1. If you undertake a return to practice course, you must send your case officer evidence of successful completion of the course that will include competencies in relation to:
 - a) communication;
 - b) documentation and record keeping;
 - c) escalating concerns;

- d) recognition of deteriorating women, pre-eclampsia; and gestational diabetes.
2. 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.
 3. 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.
 4. 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.
 5. 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;
 6. 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 12 months. The panel concluded that this period of time would allow Mrs Black sufficient time to re-engage with the NMC, secure a Return to Practice placement and support her return to midwifery practice.

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

Any future panel reviewing this case would be assisted by:

- Mrs Black's engagement whether in person or in writing;
- Up-to-date information from Mrs Black regarding her intentions for her midwifery career;
- Evidence of professional development; and
- Testimonials from a line manager or supervisor or university lecturer that detail Mrs Black's current work practices.

This will be confirmed to Mrs Black in writing.

That concludes this determination.