

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

**Substantive Order Review Hearing
Wednesday, 20 November 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Jolanta Czapska Hill

NMC PIN: 95A0056O

Part(s) of the register: Registered Midwife – January 2001
Registered Nurse – Sub Part 1
Adult Nursing – January 1995

Relevant Location: Slough

Type of case: Misconduct

Panel members: Clive Chalk (Chair, lay member)
Laura Wallbank (Registrant member)
Gillian Tate (Registrant member)

Legal Assessor: Michael Levy

Hearings Coordinator: Ruth Bass

Nursing and Midwifery Council: Represented by Alex Radley, Case Presenter

Mrs Hill: Not present and unrepresented

Order being reviewed: Suspension order (9 months)

Fitness to practise: Impaired

Outcome: **Suspension order (4 months) to come into effect at the end of 29 December 2024 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

Mr Radley, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements 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 venue of the hearing and, amongst other things, information about Mrs Czapska Hill's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In light of all of the information available, the panel was satisfied that Mrs Czapska Hill 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 Mrs Czapska Hill

The panel next considered whether it should proceed in the absence of Mrs Czapska Hill. The panel had regard to Rule 21 and heard the submissions of Mr Radley who invited the panel to continue in the absence of Mrs Czapska Hill. He submitted that the order was due to expire on 29 December 2024 and the case would need to be heard prior to that date.

Mr Radley made reference to an email from Mrs Czapska Hill dated 18 November 2024, requesting that the hearing be postponed, and which states:

*'NMC Hearing postponement on compassionate grounds urgent request
case reference: 078069/2020*

1. Please kindly note that this is my first opportunity to submit this request following [PRIVATE] I therefore can not come to the hearing. This is because I am not able and not fit to organise, to prepare, to travel to London, to self-represent and to participate in the NMC hearing on Wednesday 20 November 2024 at 9:30 am in these circumstances.

2. [PRIVATE].

3. In addition, I have no benefit of legal help and so far, I have not had a fair opportunity to give evidence, which I intend to do. Especially that I have been already very badly affected by the fitness to practice conducted by the NMC [PRIVATE]. Hence my request to postpone this hearing please and to not perform a hearing in respect to my person in this this case in my absence in these exceptional and very difficult circumstances...'

Mr Radley submitted that Mrs Czapska Hill had not provided any [PRIVATE] evidence, [PRIVATE] in support of her application. He submitted that the panel should take into account that Mrs Czapska Hill has never attended any of the hearings and had on a number of occasions criticised the outcome and decision making process with regard to those hearings. He submitted that if the panel were to proceed, it may be considering whether to strike Mrs Czapska Hill off the register, and as such the panel would need to bear this mind when considering whether or not to proceed. However, he submitted that it was in the public interest for the panel to proceed today.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Czapska Hill. In reaching this decision, the panel has considered the submissions of Mr Radley, the written representations from Mrs Czapska Hill, and the advice of the legal assessor. It has had particular regard to the relevant case law and to the overall interests of justice and fairness to all parties.

The panel was also of the view that it was in the public interest that the hearing be heard before the expiration of the current order. The panel considered the email communication between Mrs Czapska Hill and the NMC in relation to the request to adjourn. It accepted that Mrs Czapska [PRIVATE]. However, it noted that the NMC had asked Mrs Czapska Hill to confirm whether she *'would be available to attend a rescheduled review before [29 December 2024]...'*, and that there had been no response from her.

The panel also considered Mrs Czapska Hill's correspondence to the NMC dated 21 October 2024 and noted that she had not provided any of the information suggested by the previous panel, and also that she had not attended any of the previous hearings. The panel was of the view that Mrs Czapska Hill had not engaged with the NMC in a meaningful way, and that adjourning the hearing was unlikely to result in her attendance at a future date.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Czapska Hill.

Decision and reasons on application for hearing to be held in private

Mr Radley made an application for parts of this hearing relating to Mrs Czapska Hill's [PRIVATE] to be heard in private. The application was made pursuant to Rule 19 of the Rules.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there may be reference to Mrs Czapska Hill's [PRIVATE], the panel determined to hold those parts of the hearing in private, so as to protect her right to privacy.

Decision and reasons on review of the substantive order

The panel decided to confirm the current suspension order.

This order will come into effect at the end of 29 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of four months by a Fitness to Practise Committee panel on 27 April 2023. This was reviewed on 22 September 2023 where the panel imposed a six-month suspension order. The order was reviewed again on 20 February 2024, where the panel imposed a nine-month suspension order.

The current order is due to expire at the end of 29 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. *Requested that laboratory tests be undertaken on your own blood at the following dates and times:-*
 - a) *26 August 2018 at 10.49;*
 - b) *14 October 2018 at 10.47;*
 - c) *14 October 2018 at 16.24;*
 - d) *17 March 2019 at 14.14;*
 - e) *12 May 2019 at 12.53.*

2. *When requesting the aforesaid two tests on 14 October 2018 incorrectly entered the name of a doctor in the “Requesting Consultant/GP” section of the relevant electronic form.*
3. *Your conduct at charges 1 a) to e) above was an abuse of your position as a midwife in that you used your access to your employer’s resources and your knowledge of their systems for your personal gain.*
4. *Between 26 August 2018 and May 2019 accessed your own medical records through your employers network/clinical systems on one or more occasions for reasons which did not relate to a patient and when you did not have a legitimate work related reason to do so.*

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

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

‘The panel considered whether Mrs Czapska Hill’s fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Czapska Hill had little insight and noted her lack of accountability as she sought to ‘justify her actions and attribute blame elsewhere’. At this hearing, the panel determined that it has seen no further evidence indicating that Mrs Czapska Hill has developed any further insight, and it concluded that she has little to no insight into her wrongdoing. The panel had regard to Mrs Czapska Hill’s remarks made at the substantive hearing, which stated:

‘I do not understand why my first self-referral back in August 2018 did not immediately come to light. My question here is why my employer did not act on them straight away to protect me from doing it again?’

The panel determined that Mrs Czapska Hill maintains that she has done nothing wrong, and has continued to deflect blame onto others. The panel considered the documentation Mrs Czapska Hill has provided and it had regard to [PRIVATE] language obstacles referenced in the documentation. However, the panel concluded that Mrs Czapska Hill has shown no development into her insight, and has not reflected on her misconduct.

In its consideration of whether Mrs Czapska Hill has taken steps to strengthen her practice, the panel considered there was no new information which was presented indicating Mrs Czapska Hill has completed further training or addressed the concerns since the last review.

The last reviewing panel determined that Mrs Czapska Hill was liable to repeat matters of the kind found proved. Today's panel has heard no new information to suggest otherwise. In light of this, this panel determined that Mrs Czapska Hill remains liable to repeat matters of the kind found proved. 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 and midwifery 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 alone is required.

For these reasons, the panel finds that Mrs Czapska Hill's fitness to practise remains impaired.'

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

'The panel considered the imposition of a further period of suspension. It was of the view that a suspension order of a longer duration would allow Mrs Czapska Hill further time to fully reflect on her previous misconduct. It considered that Mrs Czapska Hill's needs to gain a full understanding of how her misconduct has impacted the Trust, her colleagues and the midwifery profession as a whole. The

panel concluded that a further nine-month suspension order would be the appropriate and proportionate response and would afford Mrs Czapska Hill adequate time to further develop her insight and take steps to strengthen her practice, should she wish to do so.

The panel determined therefore 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 nine months, as this would provide Mrs Czapska Hill with an opportunity to meaningfully engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.

The panel determined that a striking off-order would be disproportionate at this time. However, the panel noted that, in light of Mrs Czapska Hill's continued limited meaningful engagement with the NMC as well as her limited insight, a future panel may find her actions to be incompatible with remaining on the NMC Register.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Czapska Hill'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, and email correspondence from Mrs Czapska Hill to the NMC dated 21 October 2024 and 18 November 2024. It has taken account of the submissions made by Mr Radley on behalf of the NMC.

Mr Radley submitted that the burden of proof was on Mrs Czapska Hill to show that her fitness to practise was no longer impaired. He submitted that Mrs Czapska Hill had not provided any evidence in relation to her [PRIVATE] and how it impacted upon her practice, and also that there had been a further lack of compliance with regard to cooperating with the NMC to provide evidence to the panel of any improvement in her practice.

Mr Radley submitted that a further period of suspension was unlikely to result in a response from Mrs Czapska Hill, given that she has been unwilling to provide any reflection to date, and denies the findings made against her. He submitted that Mrs Czapska Hill had, again, not provided the information requested from the previous panel for the benefit of today's panel, and that given the history of this case she should now be struck off.

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 Czapska Hill's fitness to practise remains impaired.

This panel had regard to the last reviewing panel's decision and noted that Mrs Czapska Hill had not provided any evidence of development of her insight or strengthening of her practice.

At this hearing, the panel noted that Mrs Czapska Hill had, once again, not provided any evidence of insight or strengthening of practice for it to consider. It had regard to the email from Mrs Czapska Hill dated 21 October 2024 and noted that the content of that email did not address the misconduct in this case but related to matters of process and procedures. The panel was of the view that there had been no meaningful engagement by Mrs Czapska Hill since the last review, in relation to her current fitness to practise. Having received no evidence of insight into her misconduct, or strengthening of practice

from Mrs Czapska Hill, the panel determined that a risk of repetition remained. It 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. It was not satisfied that confidence in the profession would be maintained if the seriousness of the charges found proved were not marked and, where a midwife who had demonstrated concerning attitudinal issues within their practice had not remediated this behaviour, were allowed to practise unrestricted. The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mrs Czapska Hill's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Czapska Hill'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), including REV -3a and REV 3h, 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.

Having accepted the legal assessors advice, the panel first considered whether to take no action but concluded that this would be inappropriate in view of the public protection issues identified and 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 Mrs Czapska Hill'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 Czapska Hill’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 conditions of practice on Mrs Czapska Hill’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 fact that the misconduct in this case related to attitudinal issues regarding Mrs Czapska Hill’s practice, which includes an abuse of her position of trust. The panel was of the view that there were no practical or workable conditions that could be formulated, which would adequately protect the public, given the nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Mrs Czapska Hill’s registration would not adequately address the seriousness of this case.

The panel considered the imposition of a further period of suspension. It had regard to the Sanctions Guidance which states that a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *...*

The panel was of the view that Mrs Czapska Hill’s actions had fallen somewhat outside of the scope to be considered suitable for a suspension order, in that it

was not a single incident of misconduct, but a repetition of behaviour over a period time. It also found that she had demonstrated evidence of attitudinal issues, failed to demonstrate any insight into her misconduct, and that there was a significant risk of repetition of the misconduct in light of her failure to demonstrate any insight or strengthening of practice.

However, the panel took into account Mrs Czapska Hill's reason for non-attendance today; [PRIVATE]. The panel had regard to the communication provided by Mrs Czapska on 21 October 2024 and was of the view that although it did not address the matters of concern for this panel, she had requested documentation for the purposes of reviewing her position. The panel also took into account Mrs Czapska's email dated 18 November 2024 which states:

'...[PRIVATE]. I therefore can not come to the hearing. This is because I am not able and not fit to organise, to prepare, to travel to London, to self-represent and to participate in the NMC hearing on Wednesday 20 November 2024 at 9:30 am in these circumstances...'

The panel was of the view that Mrs Czapska Hill had expressed an intention to attend the hearing had she not experienced [PRIVATE], and may have wished to engage in a more meaningful way in person.

The panel did seriously consider imposing a strike off order. However, in view of Mrs Czapska Hill's possible intention to attend today's hearing, the panel concluded that, on this occasion, a 4-month suspension order would be the appropriate and proportionate response. The panel considered that this would afford Mrs Czapska Hill time [PRIVATE] to engage with these proceedings, whilst also allowing a further opportunity to develop and/or evidence her insight into her misconduct and take steps to strengthen her practice.

The panel determined therefore 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 4 months to provide Mrs Czapska Hill a further opportunity to engage with the NMC in a meaningful way. It considered this to be the most appropriate and proportionate sanction available at this time.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 29 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, which could include a strike off.

The total period of suspension by the expiry of this order would have been approximately 2 years. Suspensions are not intended to exist indefinitely and the burden is on the registrant to demonstrate to the next reviewing panel that they are capable of returning to safe unrestricted practice within a reasonable period of time. The next reviewing panel would expect Mrs Czapska Hill to have developed significant insight into her misconduct and therefore would expect the following:

- Mrs Czapska Hill's attendance at the hearing, either in person or virtually
- A comprehensive written reflective piece from Mrs Czapska Hill, focussing on the impact of her misconduct on the Trust, her colleagues, and the impact of her misconduct on the public perception of the midwifery profession as a whole
- Any evidence of training or updating of midwifery practice
- A statement on whether Mrs Czapska Hill wishes to continue with a career in midwifery, and if so how she intends to manage her return to safe and effective practice.

This will be confirmed to Mrs Czapska Hill in writing.

That concludes this determination.