

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

**Substantive Order Review Hearing
Wednesday 16 October 2024**

Virtual Hearing

Name of Registrant: Olivia Deboise

NMC PIN 16A0124E

Part(s) of the register: Registered Nurse – Sub Part 1
Children’s Nursing – April 2016

Relevant Location: Cambridgeshire

Type of case: Lack of competence

Panel members: Vicki Wells (Chair, Registrant member)
Sharon Haggerty (Registrant member)
Colin Sturgeon (Lay member)

Legal Assessor: Michael Hosford-Tanner

Hearings Coordinator: Emma Norbury-Perrott

Nursing and Midwifery Council: Represented by Kirsty Shaw, Case Presenter

Miss Olivia Deboise: Not Present and unrepresented at the hearing.

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

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry (end of 15 November 2024), with finding of impairment, 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 Ms Deboise was not in attendance and that the Notice of Hearing had been sent to Ms Deboise's registered email address by secure email on 17 September 2024.

Further, the panel noted that the Ms Deboise's representative at the Royal College of Nursing (RCN) was notified informally on 12 September 2024 of this intended review hearing.

Kirsty Shaw, 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. The notice included instructions on how to join and, amongst other things, information about Ms Deboise'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 Ms Deboise 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 Ms Deboise

The panel next considered whether it should proceed in the absence of Ms Deboise. The panel had regard to Rule 21 and heard the submissions of Ms Shaw who invited the panel to continue in the absence of Ms Deboise. She submitted that Ms Deboise had voluntarily absented herself.

Ms Shaw referred the panel to correspondence sent by the Royal College of Nursing (RCN) to the NMC dated 14 October 2024 in which the following was stated:

'Our member will not be attending the hearing, nor will they be represented. No disrespect is intended by their non-attendance and our member is keen to continue to engage with the proceedings. Our member has received the notice of hearing and is happy for the hearing to proceed in their absence.'

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Ms Deboise. In reaching this decision, the panel has considered the submissions of Ms Shaw, the representations from The Royal College of Nursing (RCN) made on Ms Deboise's behalf, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Ms Deboise has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- 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 Ms Deboise.

Decision and reasons on review of the substantive order

The panel decided to allow the current order to lapse upon expiry, with a finding of impairment.

This will come into effect at the end of 15 November 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of 2 years by a Fitness to Practise Committee panel on 15 October 2021. This was reviewed on 9 October 2023 where the panel imposed a further conditions of practice order for a period of 12 months.

The current order is due to expire at the end of 15 November 2024.

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

The facts in the charges were found proved by way of admission, you denied lack of competence but the substantive panel found that proved. The reamended charges were as follows:

'That you, a registered nurse, between 16 April 2018 and 16 November 2018, whilst working as a band 5 paediatric nurse:

~~1) failed to demonstrate the standards of knowledge, skill and judgement required to practise without supervision as a band 5 paediatric nurse in that:~~

a) on 16 May 2018 you incorrectly recorded the measurement of a child's head circumference and the date in the patient's red book

b) on 20 June 2018 you employed poor technique when trying to catch a urine sample

c) on 25 June 2018 you ~~failed to~~ did not demonstrate a an adequate knowledge of the normal paediatric blood pressure ranges

d) on 25 June 2018 you were unable to turn on the suction function of the resuscitation trolley

e) on 27 June 2018 you employed incorrect technique when taking a length measurement of a baby

f) on 10 July 2018 you ~~failed to~~ did not demonstrate an adequate understanding of

nasogastric tube procedure

g) on 25 July 2018 you did not adopt the "stretch" technique when taking the height measurement of a teenage patient

h) on 25 July 2018

i) you ~~failed to~~ did not recognise a blood pressure reading of 103/44 of a sevenmonth old (diagnosed with hypoplasia of arch and coarctation of aorta) as an elevated blood pressure reading

ii) you ~~failed to~~ did not repeat the blood pressure reading of 103/44

iii) you ~~failed to~~ did not document the status of the baby when the reading of 103/44 was taken

i) on 30 July 2018

- i) you employed incorrect technique when taking a height measurement of a young patient
 - ii) you ~~failed to~~ did not use the stadiometer correctly by not applying the brake release button
- j) on 8 August 2018
 - i) you employed incorrect technique when taking a height measurement
 - ii) you ~~failed to~~ did not use the stadiometer correctly by not applying the brake release button
 - iii) you struggled to calculate the normal range for blood pressure when assessing a 14 year old patient
- k) on 16 August 2018 you employed incorrect technique when taking a patient's height measurement
- l) on 23 August 2018
 - i) you employed incorrect technique when taking a baby's weight measurement
 - ii) you ~~demonstrated poor understanding in relation to the correct documentation of patients' weight measurements~~ did not document that the baby was wearing a nappy when weighed without prompting
 - i) you were unable to obtain an accurate blood pressure reading manually, using a stethoscope, in respect of a seventeen year old patient
- m) on 4 October 2018 you ~~failed to~~ did not document the reason why you had properly weighed a patient with their shoes on
- n) on 10 October 2018 you employed incorrect technique when taking a height measurement
- o) on 29 October 2018
 - i) you ~~failed to~~ did not recognise a blood pressure reading of 100/61 of a sevenmonth old as an elevated blood pressure reading
 - ii) you ~~failed to~~ did not repeat the blood pressure reading of 100/61
 - iii) you ~~failed to~~ did not document the status of the baby when the reading of 103/61 was taken
 - iv) you ~~failed to~~ did not measure the head circumference despite the patient's referral letter reporting an enlarged head circumference
- p) on or around 7 November 2018
 - i) you ~~failed to~~ did not recognise a blood pressure reading of 98/54 of a threemonth old as an elevated blood pressure reading
 - ii) you ~~failed to~~ did not repeat the blood pressure reading of 98/54
 - iii) you ~~failed to~~ did not document the status of the baby when the reading of 98/54 was taken
 - iv) you ~~failed to~~ did not take and/or record a blood pressure reading for a patient who had a large atrial septal defect
 - v) you ~~failed to~~ did not take and/or record a length measurement for a patient who had a large atrial septal defect
 - vi) you ~~failed to~~ did not take and/or record a weight measurement for a patient who had a large atrial septal defect
 - vii) you demonstrated a poor understanding of the importance of conducting upto-date observations
 - viii) you ~~failed to~~ did not adhere to infection control protocols by not wearing an apron when carrying out a clean-catch urine procedure
- q) on 14 November 2018 you ~~failed to~~ did not recognise the necessity for

respiratory observations when assessing a patient with cystic fibrosis

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

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

'The panel noted that the original panel found that Miss Deboise had a lack of full insight. At this hearing the panel, the panel had no information to indicate that this level of insight has changed. It therefore determined that Miss Deboise's insight remains the same as at the substantive hearing. It noted that the brief reflective statement provided by Miss Deboise did not address the concerns identified at the substantive hearing but provided an overview on what employment Miss Deboise has undertaken since the last hearing. The panel concluded that Miss Deboise has failed to demonstrate an understanding of how her actions put patients at a risk of harm, she has also failed to demonstrate an understanding of why her lack of competency would have impacted negatively on the reputation of the nursing profession. Nor has the panel had information to explain how Miss Deboise would handle similar clinical situations differently in the future. The panel therefore concluded that there is no new information in relation to Miss Deboise's level of insight.

In its consideration of whether Miss Deboise has taken steps to strengthen her practice. The panel took into account that Miss Deboise has not secured employment as a nurse to address the failings fully, by way of her clinical practice and as a result has not been able to comply with the current conditions of practice order imposed by the panel. However, it has been provided with no evidence of relevant activities or training which might go toward addressing the concerns which were identified at the substantive hearing.

The original panel determined that Miss Deboise was liable to repeat matters of the kind found proved. Today's panel took into account that it has been provided with a brief reflective account, as well as the two testimonials provided on Miss Deboise's behalf, whilst noting that they did not come from nursing colleagues who could speak to Miss Deboise's nursing and clinical practice. It concluded that it could not attach any weight to these testimonials. The panel bore mind that it has had no new information put before it which addresses the concerns identified at the substantive hearing. In light of this, this panel determined that Miss Deboise remains 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. The panel was of the view that a fully informed member of the public would be concerned to learn that a registrant is permitted to practice with no restrictions on their NMC registration given these circumstances.

For these reasons, the panel finds that Miss Deboise's fitness to practise remains impaired.'

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

'Having found Miss Deboise'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 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 Deboise'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 Deboise's 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 imposing a further conditions of practice order on Miss Deboise'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 it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that Miss Deboise has been unable to comply with conditions of practice as she has not been able to secure employment as a nurse. The panel took into

consideration that Miss Deboise is engaging with the NMC and is willing to comply with any conditions imposed.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that Miss Deboise did not demonstrate any deep-seated attitudinal problems, that there are identifiable areas of Miss Deboise's practice which are in need of assessment and/or retraining, Miss Deboise has demonstrated a 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 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 Deboise's case as she has not had an opportunity to secure work as a nurse to address the concerns identified in her nursing practice. It noted the submissions made on Miss Deboise's behalf to extend the current conditions of practice order.

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 15 November 2023. It decided to continue 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. *You must provide the NMC a report from your line manager signing you off as competent in respect of the areas of concern:*
 - *Weighing and measuring paediatric patients*
 - *Record-keeping*
 - *Blood pressure monitoring*

2. *In advance of any hearing, your line manager or supervisor should provide a report to the NMC that sets out their thoughts on your progress and in respect of the three areas of concern:*
 - *Weighing and measuring paediatric patients*
 - *Record-keeping*
 - *Blood pressure monitoring*

3. *You must work with your line manager to create a personal development plan which must address the concerns identified about weighing and measuring paediatric patients, record-keeping and blood pressure monitoring.*

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

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

6. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any employers you apply to for work (at the time of application).*
 - c) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - d) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*

7. *You must tell your case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*

8. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
 - a) *Any current or future employer.*
 - b) *Any educational establishment.*
 - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 15 November 2023 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Miss Deboise 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:

- *Continued engagement and attendance at any future hearing.*
- *A reflective piece specifically dealing with the identified areas of concern, including the impact on patient safety, colleagues, and public confidence in the profession.*
- *Evidence of any relevant activities or training that Miss Deboise might have undertaken by which to strengthen her practice.*
- *References or testimonials associated with any paid or unpaid employment.'*

Decision and reasons on current impairment

The panel has considered carefully whether Ms Deboise'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 ability to be a safe, kind and professional nurse. 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. It has taken account of the submissions made by Ms Shaw on behalf of the NMC. Ms Shaw gave a background of the case, outlining the matters found proved by way of admission at the substantive hearing, and the finding of continued impairment by the reviewing panel on 9 October 2023, and the conditions of practise order imposed as a result. She asked the panel to refer to a letter dated 14 October 2024 from the RCN on behalf of Ms Deboise stating:

'The Registrant has been subject to a substantive order since 16 November 2021.

The Registrant has not worked as a registered nurse since 2018. She is currently employed Fertility Administrator at Cambridge IVF, part of Cambridge University Hospitals Foundation Trust, and has worked there since August 2022.

The last renewal that the Registrant undertook was in 2019. The Registrant's registration fee expired on 30 April 2020, and she has not paid a registration fee since. The Registrant would lapse from the Register but for the ongoing fitness to practice proceedings, under which she has been made subject to a substantive conditions of practice order. A print out of the NMC Register has been enclosed with these submissions to demonstrate this.

The Registrant has considered her current circumstances and no longer wishes to retain her PIN and would like these proceedings to come to a close. Her reasoning for this decision has been set out in the enclosed signed statement.

In light of the above, we invite the Panel to allow the Registrant's substantive conditions of practice to expire.'

In light of this information, and with no new evidence for the panel to consider, Ms Shaw submitted that a continued finding of impairment is necessary to protect the public and uphold public confidence in the nursing and midwifery profession. Ms Shaw submitted that due to Ms Deboise not wishing to return to practice, and acknowledging that she feels considerably deskilled due to the extended period of time that she has been unable to practise as a registrant, that the panel should consider allowing the current order to lapse upon expiry, with a finding of impairment. Ms Shaw directed the panel to the FtP guidance REV-3H, particularly point 2 which states:

Lapse with impairment

Where the professional would no longer be on the register but for the order in place, a reviewing panel can allow the order to expire or, at an early review, revoke the order. Professionals in these circumstances will automatically be removed from the register, or lapse, upon expiry or revocation of the order. The panel will record that the professional remains impaired.

A panel will allow a professional to lapse with impairment where:

- the professional would no longer be on the register but for the order in place ;*
- the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- a striking off order isn't appropriate.*

Whilst the intentions or wishes of the professional do not determine whether they should be allowed to lapse, a professional who would no longer be on the register but for the order in place can themselves request an early review to ask that the order is removed.

Panels should be considering lapse with impairment even where the reason for a professional's lack of progress is outside their control. What matters is whether such issues are likely to be resolved in a reasonable period of time.

Circumstances where lapse with impairment is likely to be appropriate include where

- ...*
- ...*
- in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g. health, immigration status, the ability to find work or other personal circumstances).*

The panel also had regard to written submissions from the RCN on behalf of Ms Deboise.

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 Ms Deboise's fitness to practise remains impaired.

The panel noted that the first reviewing panel found that Ms Deboise had not been able to secure employment as a nurse. The reviewing panel could not assess effectively whether Ms Deboise would be able to safely and effectively comply with the conditions of practice order imposed by the substantive panel. The first reviewing panel took into account that Ms Deboise had not demonstrated sufficient insight into matters found proved.

At this hearing, the panel firstly considered what evidence had been provided by Ms Deboise to demonstrate her ability to practise as a safe, kind and professional nurse. With no new information of this nature provided by Ms Deboise, the panel viewed that Ms Deboise had not demonstrated evidence of developing insight into matters found proved previously, strengthening of practice, or evidence of working safely in accordance with the existing conditions of practise order.

In its consideration of whether Ms Deboise has taken steps to strengthen her practice, the panel took into account that Ms Deboise has not secured employment as a nurse to address the failings fully, by way of her clinical practice and as a result has not been able to comply with the current conditions of practice order imposed by the panel. The panel has been provided with no evidence of relevant activities or training which may address the concerns which were identified at the substantive hearing.

The first reviewing panel determined that Ms Deboise was liable to repeat matters of the kind found proved. With no new evidence before it to consider, and taking into account the gravity of numerous instances of lack of competence, namely 29 instances involving 15

patients over a period of 7 months found to be proved, this panel find that Ms Deboise is likely to repeat matters found proved.

In its consideration of whether Ms Deboise has taken steps to strengthen her practice, the panel took into account a signed declaration from Ms Deboise, dated 14 October 2024, stating;

'I accept that my fitness to practise is currently impaired. I do not want or intend to continue practising. I understand that if I were to apply for readmission to the Register, I will be required to demonstrate that I am capable of safe and effective practice and the steps that I have taken to improve my practice and reduce any risks to patients.

I can confirm I have no intention to return to nursing practice as due to the length of time elapsed since I have practiced I feel sufficiently deskilled and would not feel confident or safe to return to practice at this time. I feel a return to practice course would be fitting and would be undertaken before returning to practice'

In light of this, this panel determined that Ms Deboise has acknowledged and accepted that she is not safe to practise unrestricted at this time. 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 considered that a reasonable, well informed member of the public would be concerned if Ms Deboise was able to practise without restriction until she has demonstrated she can practise safely, kindly and effectively. Accordingly, the panel determined that, in this case for the reasons given above, a finding of current impairment on public interest grounds is also required.

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

Decision and reasons on sanction

Having found Ms Deboise'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 had regard to its previous findings on impairment in coming to this decision. It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator. In this case, the panel referred to the Ftp guidance REV-3H, in particular point 2:

'Lapse with impairment

Where the professional would no longer be on the register but for the order in place, a reviewing panel can allow the order to expire or, at an early review, revoke the order. Professionals in these circumstances will automatically be removed from the register, or lapse, upon expiry or revocation of the order. The panel will record that the professional remains impaired.

A panel will allow a professional to lapse with impairment where:

- the professional would no longer be on the register but for the order in place ;*
- the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- a striking off order isn't appropriate.*

Whilst the intentions or wishes of the professional do not determine whether they should be allowed to lapse, a professional who would no longer be on the register but for the order in place can themselves request an early review to ask that the order is removed.

Panels should be considering lapse with impairment even where the reason for a professional's lack of progress is outside their control. What matters is whether such issues are likely to be resolved in a reasonable period of time.

Circumstances where lapse with impairment is likely to be appropriate include where

- ...
- ...
- *in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g. health, immigration status, the ability to find work or other personal circumstances).*

The panel considered allowing the order to lapse with a finding of impairment which would see the removal of Ms Deboise from the register. It took into consideration the continued engagement of Ms Deboise, and her insight in stating she has no intention of returning to nursing practise as she feels deskilled and would not feel confident or safe to return to practice at this time. The panel has regard to section 3 of the Ftp guidance REV-3H, and the panel considered that it would be disproportionate to strike off the registrant and this is not required to protect the public. Ms Deboise has shown lack of competence from the outset of her career where she did not pass her Trust's probationary period but there has been no allegation of misconduct.

Having considered its findings on impairment, and the declarations provided by Ms Deboise, the panel was satisfied that this outcome is proportionate in line with public protection and public interest grounds. In any application for readmission to the register the decision maker will be aware of the concerns that led to the original substantive finding of impairment, and that the professional left the register while impaired.

The substantive conditions of practice order will be allowed to lapse at the end of the current period of imposition, namely the end of 15 November 2024 in accordance with Article 30(1).

This will be confirmed to Ms Deboise in writing.

That concludes this determination.