

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

**Substantive Order Review Hearing  
Tuesday, 4 February 2025**

Virtual Hearing

<b>Name of Registrant:</b>	Abiola Abiodun Akinola	
<b>NMC PIN</b>	03H1084O	
<b>Part(s) of the register:</b>	Registered Nurse – RN1 Adult Nursing – August 2003  Registered Midwife – RM February 2008	
<b>Relevant Location:</b>	Wolverhampton	
<b>Type of case:</b>	Lack of competence	
<b>Panel members:</b>	Richard Youds Tanya Tordoff Sarah Fleming	(Chair, lay member) (Registrant member) (Registrant member)
<b>Legal Assessor:</b>	Melissa Harrison	
<b>Hearings Coordinator:</b>	Abigail Addai	
<b>Nursing and Midwifery Council:</b>	Represented by Nawazish Choudhury, Case Presenter	
<b>Ms Akinola:</b>	Not present and unrepresented	
<b>Order being reviewed:</b>	Conditions of practice order (18 months)	
<b>Fitness to practise:</b>	Impaired	
<b>Outcome:</b>	<b>Order to lapse with impairment upon expiry in accordance with Article 30 (1), namely 15 March 2025</b>	

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Ms Akinnola was not in attendance and that the Notice of Hearing had been sent to Ms Akinnola's registered email address by secure email on 12 December 2024.

Further, the panel noted that the Notice of Hearing was also sent to Ms Akinnola's representative on 12 December 2024.

Mr Choudhury 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 Ms Akinnola'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 Akinnola has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

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

At the outset of the hearing, Mr Choudhury made a request that this case be held in private on the basis that proper exploration of Ms Akinnola's case involves references to

[PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (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 will be reference to [PRIVATE], the panel determined to hold part of the hearing in private to protect her privacy.

### **Decision and reasons on proceeding in the absence of Ms Akinnola**

The panel next considered whether it should proceed in the absence of Ms Akinnola. The panel had regard to Rule 21 and heard the submissions of Mr Choudhury who invited the panel to continue in the absence of Ms Akinnola.

Mr Choudhury referred the panel to the email correspondence from Ms Akinnola dated on 17 January 2025 which reads:

*'...Thank you for your message and I would like to inform you that I am not available and presently out of the country [PRIVATE]'.*

[PRIVATE]. [Mr Choudhury] further submitted that both Ms Akinnola and her representative have not made an application for an adjournment and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

Mr Choudhury further directed the panel to the on-tables which show the NMC's attempts to communicate with Ms Akinnola and her representative about these proceedings. He submitted that both parties have been involved in these proceedings since 2016. Therefore, they are aware of the importance of attending these proceedings. Mr Choudhury reminded the panel that this is now the eighth review of a substantive order

review due to expire on 15 March 2025. Therefore, to serve the interest of justice, it will be appropriate to proceed in Ms Akinola's absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Ms Akinola. In reaching this decision, the panel has considered the submissions of Mr Choudhury, 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:

- No application for an adjournment has been made by Ms Akinola or her representative;
- Ms Akinola has informed the NMC that she has received the Notice of Hearing and confirmed they will not be attending [PRIVATE];
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Despite a potential disadvantage for Ms Akinola, the order is due to expire on 15 March 2025. Therefore, it is fair, appropriate and proportionate to proceed in her absence; 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 Akinola.

### **Decision and reasons on review of the substantive order**

The panel decided to allow the order to lapse with impairment upon expiry, namely at the end of 15 March 2025.

This order will come into effect at the end of 15 March 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the eighth effective review of a substantive conditions of practice order originally imposed for a period of 12 months by a Conduct and Competence Committee ("CCC")

panel on 11 February 2016. This matter was first reviewed on 7 February 2017, where a CCC panel imposed a conditions of practice order for 12 months. At the second review on 2 February 2018, a panel of the Fitness to Practise Committee (“FtPC”) imposed a conditions of practice order for a further 12 months. At the third review on 15 March 2019, a panel of the FtPC imposed another conditions of practice order for 12 months. At the fourth review on 4 February 2020, a panel of the FtPC imposed a conditions of practice order for an additional 12 months. At the fifth review on 26 February 2021, a panel of the FtPC imposed a conditions of practice order for 12 months. At the sixth review on 3 March 2022, a panel of the FtPC imposed a conditions of practice order for a period of 18 months. At the seventh review, the panel imposed a new conditions of practice order for a period of 18 months.

The current order is due to expire at the end of 15 March 2025.

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

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

*‘That you whilst employed as a Registered Midwife by Imperial College Healthcare NHS Trust (“the Trust”) failed to demonstrate the standard of knowledge, skill and judgement required for practice without supervision as a Registered Midwife in that:*

- 1. Between 14 March 2013 and 9 July 2013 you failed to meet the standards of the Local Supervising Authority Supervised Practice Programme by*
  - 1.1. failing to demonstrate competency in elements 1 and 3 of the Accountability proficiency as detailed in Schedule 1*
  - 1.2. failing to demonstrate competency in elements 1 and 3 of the Effective Communication proficiency as detailed in Schedule 2*
  - 1.3. failing to demonstrate competency in elements 3.1 to 3.6 inclusive and 4 of the Documentation and Record Keeping proficiency as detailed in Schedule 3*
  - 1.4. failing to demonstrate competency in all elements of the Use of Prostaglandins to Induce Labour proficiency as detailed in Schedule 4*

*1.5. failing to achieve 40% or more in the academic element in that you achieved 32%*

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

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

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

*The panel had sight of a reflective piece completed by you, along with the information in relation to the RtP programme. The panel noted that whilst this reflective piece was not required by your conditions of practice order, the previous reviewing panel had raised concerns about how this document had not been forthcoming despite the significant time period that had lapsed since the order was imposed.*

*In assessing the information provided, this panel agreed with the submission of Ms Adeyemi, that your reflection appeared to be relatively superficial, in that you largely appeared to deflect blame away from yourself for your own deficiencies. It was of the view that you did not give adequate consideration as to how your lack of competence exposed patients in your care to a risk of unwarranted harm, or the impact your conduct could have had on colleagues, the wider public and the professions as a whole. You have not set out what attempts you have made to improve your own nursing and midwifery practice, or keep up to date with the professions you intend to practice in future. The panel considered you to have only demonstrated limited insight within your reflective piece.*

*The panel noted that since the last review hearing, you have not been able to obtain work as a registered nurse. Your current conditions of practice order prohibits you from working as a registered midwife.*

*The panel noted that you are required to complete a RtP programme before working in a registered capacity, due to the significant period of time since you last*

*practised. It was aware that you had previously enquired about enrolling on a RtP programme, but due to passport and immigration issues, you were unable to complete this course. However, new dates for a RtP programme have been proposed to you, and you intend to enrol on a course commencing in April 2024. The panel noted that this would be the first step for you in attempting to strengthen your practice in the areas identified as deficient, before you could return to a nursing or midwifery environment.*

*Whilst you have not been able to find work in a nursing environment, the panel was of the view that it would still have been possible for you to have attempted to address some of the concerns identified in the intervening period. However, it determined that you had not made any real progress in doing so. You have not provided the panel with any evidence of training, or in keeping your nursing/midwifery knowledge up to date.*

*In the absence of any evidence to the contrary, the panel could not be satisfied that you no longer pose a risk to patient safety. It had no evidence before it to suggest that the risk of harm had reduced. Therefore, the panel considered there to be a real risk of repetition of the events and a risk of significant harm to patients in your care, should you be permitted to return to unrestricted practice. The panel decided that a finding of continuing impairment is necessary on the grounds of public protection.*

*The panel bore in mind the overarching objective of the NMC: to protect, promote and maintain the health, safety and well-being of the public and patients and the wider public interest which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. As you have not yet addressed the concerns identified by the previous panel, this panel determined that, in these circumstances, a finding of continuing impairment on public interest grounds is required. It was of the view that a fully informed member of the public, who was aware of all the evidence presented in this case, would be concerned by your lack of competence, and would expect a panel to make a finding that your fitness to practise remains impaired, in the absence of any new evidence to the contrary.*

*For these reasons, the panel finds that your fitness to practise remains impaired on the grounds of public protection and also in the public interest.'*

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

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

*The panel first considered whether to take no action but concluded that this would be inappropriate in view of the risk of harm identified, the risk of repetition, 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.*

*The panel then considered whether to impose a caution order but concluded that this would be inappropriate in view of the risk of harm identified, the risk of repetition, and the seriousness of the case. It had regard to the SG which 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 determined that your lack of competence was not at the lower end of the spectrum of fitness to practise and decided that it would be neither proportionate nor in the public interest to impose a caution order. Imposing a caution order would not provide the public with any protection whatsoever.*

*The panel next considered the imposition of another conditions of practice order. It noted that such an order is often appropriate where there are identifiable areas of practice in need of assessment or retraining. Any conditions have to be workable, measurable and proportionate.*



*The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. It was of the view that a conditions of practice order is sufficient to protect patients and address the wider public interest concerns identified in this case. However, the panel was concerned that you have not made significant progress in addressing these concerns, despite being given ample opportunity. In particular, it had remaining concerns around your lack of insight. Nonetheless, the panel acknowledged the difficulties you have in attempting to embark on a RtP programme, largely involving your passport and immigration status. It recognised that this may have hampered your progress in returning to practice. The panel was of the view that the concerns identified are capable of remediation, and that a further period of conditional registration would permit you the opportunity of strengthening your practice. You have identified a place to undertake your RtP programme having made enquiries, and you have been notified of future dates for when this course will begin.*

*In light of the above, the panel was of the view that to impose a suspension order or a striking-off order at the current time would be disproportionate. It would not be a reasonable response in the circumstances of this case, given that you remain engaged in these proceedings and have indicated a willingness to improve your practice. Whilst you are yet to make significant progress in addressing the concerns identified, you have formulated a plan as to how to go about doing so.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which will come into effect on the expiry of the current order, namely at the end of 15 September 2023. It acknowledged the submission of Ms Warner, that you may have an increased difficulty in enrolling on a RtP programme whilst subject to direct supervision and, whilst it had not had sight of any evidence of this, the panel was satisfied that the public could be adequately protected by amending condition 2 to include the lesser requirement of indirect supervision. Therefore, the panel 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 *You must not work as a midwife.*
- 2 *At any time that you are employed as a registered nurse or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer. Such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of, a registered nurse of band 6 or above who is physically present in or on the same ward, unit, floor or home that you are working in or on.*
- 3 *You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan and a reflective account specifically designed to address the deficiencies in the following areas of your practice:*
  - a) *Appropriate escalation.*
  - b) *Effective communication.*
  - c) *Documentation and record-keeping.*
- 4 *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every two weeks, to discuss the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan.*
- 5 *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) demonstrating evidence of achieving competence against the identified deficiencies in Condition 3 set out in*

*your Personal Development Plan, including any training certificates or testimonials, to the NMC before any review hearing or meeting.*

- 6 You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
- 7 You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
- 8 a. You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with midwifery or nursing, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*  
  
*b. You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
- 9 You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress from your nominated supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*
- 10 You must immediately inform the following parties that that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (9) above, to them:*

- a. Any organisation or person employing, contracting with, or using you to undertake nursing work;*
- b. Any agency you are registered with or apply to be registered with (at the time of application);*
- c. Any prospective employer (at the time of application).*
- d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).'*

### **Decision and reasons on current impairment**

The panel has considered carefully whether Miss Akinola'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. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC.

Mr Choudhury gave a background of the case and directed the panel to previous reviewing panel's decisions on Ms Akinola's impairment. He submitted that this is now the eighth review of a conditions of practice order originally imposed on 16 February 2016 where issues surrounding Ms Akinola's poor clinical skills and record management were found proved. He submitted that each reviewing panel found Ms Akinola impaired because of her limited insight and the risk of repetition. Therefore, a continuing impairment under public protection and public interest was imposed on Ms Akinola's practice.

Mr Choudhury suggested that if the panel were minded to extend the current conditions of practice order for 12 months they should also give consideration to formulating a new condition which requires Ms Akinola to inform the NMC of her enrolment into a Return to Practice (RTP) programme. He submitted this condition would assist Ms Akinola in providing the NMC her intentions to return to nursing. Further, he drew the panel's

attention to Ms Akinnola's email correspondence explaining her intention to undertake a RTP. However, he submitted it is not clear whether Ms Akinnola has enrolled into the course.

Mr Choudhury had regard to the previous panel's consideration of Ms Akinnola's current immigration status and submitted that today's reviewing panel could request that Ms Akinnola provide documentation as to how her current immigration status impacts her right to work. Mr Choudhury reminded the panel that the persuasive burden is on the registrant to prove they are no longer impaired. He submitted Ms Akinnola is impaired on both public protection and public interest grounds because the panel do not have before it any evidence of strengthening practice or training.

Mr Choudhury reminded the panel they could replace this order with a more serious order. However, invited the panel to consider a further 12 months to afford Ms Akinnola time to provide further details.

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 Akinnola's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Ms Akinnola had limited insight. At this hearing the panel agreed that Ms Akinnola's remained limited. The panel have no evidence before it to show Ms Akinnola had addressed the concerns previously raised. In relation to her immigration status and RTP course, the panel had no evidence on her enrolment and whether her immigration status still impacted her ability to find work.

Further, the panel noted that since the last hearing, there has been a reduction in engagement from Ms Akinnola apart from the email correspondence on 17 January 2025. As a result, the panel have no evidence of Ms Akinnola's compliance with her conditions. Additionally, the panel had no sight of a reflective piece from Ms Akinnola despite the

previous reviewing panel viewing her previous one as superficial. Therefore, the panel concluded Ms Akinnola is still liable to repeat the matters proved

In its consideration of whether Ms Akinnola has taken steps to strengthen her practice, the panel took into account her immigration status and right to work in the UK. The panel acknowledged Ms Akinnola expressed difficulty finding work because of these circumstances. However, the panel have nothing before it to highlight how this impacts Ms Akinnola's ability to secure employment. Therefore, the panel concluded that she cannot practise safely, kindly and professionally nor has she submitted any supporting or updating information to demonstrate that she can do so.

Further, the panel had regard to the four 'limbs' of the test as outlined in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council and (2) Grant [2011] EWHC 927 (Admin), [2011] ACD 72*. It found limbs a,b and c had been engaged with because the concerns raised nine years ago have not been sufficiently addressed. As a result, the panel concluded the public would be shocked if Ms Akinnola were to practice unrestricted. By not addressing any of the serious concerns regarding her lack of competency raised initially by her employer, or since by the NMC, within a nine year period, she has put the nursing profession into disrepute and broke fundamental tenets of the profession. Therefore, a finding of continuing impairment on public protection is required.

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 Ms Akinnola's fitness to practise remains impaired.

### **Decision and reasons on sanction**

Having found Ms Akinnola'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 Ms Akinola'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 Ms Akinola'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 conditions of practice order on Ms Akinola'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 next considered the continuation of the current conditions of practice order. The panel noted that Ms Akinola has not practised as a nurse since 2017 and therefore in order to practise would be required to complete a RTP course. The panel bore in mind that there has been a history of safe practice issues and they have not been appropriately addressed by Ms Akinola for over nine years. Moreover, the panel had sight of Ms Akinola's intentions of enrolling to a RTP course however, the panel concluded it is unclear whether Ms Akinola has started this course. The panel next considered her immigration status and concluded there is no evidence as to the current position with this and the likelihood of it being resolved.

On this basis, the panel concluded that whilst a conditions of practice order could still be applicable, it concluded that due to the length of time that the conditions of practice orders have been in place without addressing the failings the conditions are no longer workable.

The panel concluded that no workable conditions of practice could be formulated which would protect the public or satisfy the wider public interest.

The panel then carefully considered the NMC guidance on 'Removal from the register when there is a substantive order in place', reference 'REV-3h', last updated 30 August 2024:

## **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
- there has been insufficient progress

The panel is mindful that a substantive conditions of practice order has been in place since 2016. Since then, Ms Akinnola has not been able to demonstrate insight and strengthened practice sufficient to satisfy a panel that she is now able to practice without restriction in a kind, safe and professional manner.

Ms Akinnola has shown very limited insight over a significant number of years, and the panel determined that there has been insufficient progress in addressing her impairment in terms of not only insight, but in achieving basic competencies and keeping up to date with nursing.

The panel considered that a striking off order would be too punitive in the circumstances of this case which originate from the registrant's lack of competency.



The panel further determined that Ms Akinnola has made insufficient progress in completing a RtP course taking into account the previous reviewing panel determining a conditions of practice order for 18 months to provide sufficient time for this to be completed.

For all the above reasons, the panel decided the most appropriate and proportionate outcome would be to allow the current order to lapse with impairment upon expiry on 15 March 2025. In the panel's view, this is appropriate on public protection and public interest grounds. Ms Akinnola is currently only on the Register because of the substantive order in place. When the order lapses, her registration will no longer be active. Should she so wish, Ms Akinnola can apply to the registrar for readmission to the register [PRIVATE] when she is able to demonstrate her ability to practice safely, kindly and professionally without restriction. The panel decided that this is the most appropriate and proportionate outcome.

The panel therefore decided to allow the current conditions of practice order to lapse upon expiry on 15 March 2025 in accordance with Article 30(1).

This will be confirmed to Ms Akinnola in writing.

That concludes this determination