

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

**Substantive Order Review Hearing
Wednesday 22 January 2025**

Virtual Hearing

Name of Registrant: Mrs Parveen Kelly

NMC PIN 99I7519E

Part(s) of the register: Midwives part of the register RM: Midwife (1 November 2002)

Relevant Location: Oxford

Type of case: Lack of competence

Panel members: Rachel Ellis (Chair, lay member)
Alice Bradshaw (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Hala Helmi

Hearings Coordinator: Rose Herson-Lynch

Nursing and Midwifery Council: Represented by Nawazish Choudhury, Case Presenter

Mrs Kelly: Not Present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order extended for a period of 6 months in accordance with Article 30(1) to come into effect on end of 1 March 2025**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Kelly was not in attendance and that the Notice of Hearing had been sent to Mrs Kelly's registered email address by secure email on 19 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 Mrs Kelly'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 Mrs Kelly 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 Kelly

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

Mr Choudhury referred the panel to the telephone call log between Mrs Kelly and the NMC on 17th January 2025 in which it was recorded that Mrs Kelly stated:

'she will not be attending the hearing. She has said she is in the appeal process and stated she has nothing further to add and feels like she's been treated as a

criminal and feels the sanctions have been harsh where it should of been more reasonable.'

Mr Choudhury also informed the panel that Mrs Kelly was invited, during the course of this telephone conversation, to send any documentation she wished the panel to have before them. Mr Choudhury further informed the panel that Mrs Kelly has subsequently sent no documentation.

Mr Choudhury also referred the panel to the email communication on 20 January 2025 between Mrs Kelly and the Hearings Coordinator in which Mrs Kelly wrote:

'I am very sorry but I am unable to attend the hearing this week due to illness. I am very willing to engage and attend, as I have done in the entire FtP process. I informed your colleague, Mr Ali, that I would not be able to attend and that my case is in the appeal application process at the High Court.'

Mr Choudhury informed the panel that the NMC is not aware of any appeal having been made and has no records of any appeal having been lodged.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Kelly. 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 Mrs Kelly
- There is conflicting information from the registrant with regards to her reasons for non-attendance
- There is conflicting information in the email of 20th January from Mrs Kelly to the Hearings Co-ordinator as she wrote both: *"I am very willing to engage and attend"* and *"I informed your colleague... that I would not be able to attend and that my case is in the appeal application process at the High Court."*

- The phone call made by the registrant on 17 January 2025 in which she stated she would not be attending as she is going through the appeals process together with the email to the Hearings Coordinator on 20th January 2025 suggests Mrs Kelly has no intention of attending due to the appeal process she has stated is underway
- There is no reason to suppose that adjourning would secure Mrs Kelly's attendance at some future date
- The NMC has no record of an appeal having been lodged with the High Court
- The current order expires on 1 March 2025 and there are public protection issues engaged 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 Mrs Kelly.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order for a period of 6 months.

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

This is the first review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 1 August 2024.

The current order is due to expire at the end of 1 March 2025.

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, between 27 August 2019 and 31 January 2020 failed to demonstrate the standards of knowledge, skill and judgment required to practise without supervision as a Band 6 midwife, in that you.

1) Did not work to an adequate standard during your three week supernumerary period.

2) Did not work to an adequate standard during your extended supernumerary period.

3) Between 7 November 2019 and 27 January 2020 were unable to fully complete the objectives of a formal Performance Improvement Plan, in that you;

a) Failed to pass a Fetal Monitoring Assessment in that you;

i) Failed to pass a Continuous Electronic Fetal Monitoring Assessment.

ii) Failed to pass an Intermittent Auscultation test.

b) Failed to pass/complete the Passport to Practice.

c) Failed to pass a Band 6 progression form/assessment.

d) Failed to attend/pass training sessions regarding;

i) Cannulation and Venepuncture.

ii) Injectables.

e) Failed to undertake the pre-requisite E-learning sessions;

i) Venepuncture E-learning Package.

ii) Blood Transfusion E learning Package.

iii) Cannulation Video.

iv) Anaphylaxis Competency for 'Age 12 and over'.

v) Anaphylaxis Competency for 'All Ages'.

vi) Vascular Access Devices E-learning Package.

4) *On 14 November 2019, during the third stage of labour for an unknown patient;*

a) *Attempted to deliver the placenta, before checking for;*

- i) *The lengthening of the umbilical cord.*
- ii) *Whether the uterus had taken on a globular shape.*
- iii) *Whether the uterus had become firmer.*
- iv) *Whether the uterus had risen in the abdomen.*
- v) *A separation bleed.*

b) *Incorrectly attempted to pull on the umbilical cord before checking the uterus had contracted.*

c) *Incorrectly asked the unknown patient to bear down as you began to use the controlled cord traction method.*

d) *...*

5) *On or around 25 November 2019;*

a) *Were unable to demonstrate a full understanding of;*

- i) *Delivering placenta using the controlled cord contraction method, in that you stopped applying traction after a brief pull.*
- ii) *Completing Newborn Early Warning Score observation charts.*
- iii) *The preparation of a birthing bed.*
- iv) *Intravenous infusions during labour.*
- v) *How to set up an Alaris pump for infusions.*

6) *On or around 26 November 2019;*

a) *Did not know that you needed to change the position of patients with epidurals every 1 hour.*

b) *Did not know that bladder care was at 2 hour intervals.*

c) Did not know the guidelines for pyrexia in labour regarding a temperature of 37.5 degrees.

d) Considered conducting a vaginal examination for an unknown patient with a dense epidural block on her side, to avoid having to turn the patient.

e) Did not know how to turn a CTG machine off by the front button.

f) Were unfamiliar with how to get a woman onto clean sheets by turning her from side to side.

g) Did not know how perform intermittent catheterization.

7) On or around 3 December 2019 whilst caring for an unknown patient in labour;

a) Were unsure about the loading dose of IV Benzylpenicillin.

b) Were unable to prepare a syntocinon infusion.

c) Were unable to set up syntocinon in an Alaris pump.

d) Did not document any of the care provided to an unknown patient in the clinical notes.

e) Did not keep up to date with the partogram.

f) ...

8) On or around 4 December 2019 whilst caring for an unknown patient during labour;

a) *Did not appropriately titrate the rate of syntocinon whilst the patient had been contracting 5-6:10 for 20 minutes.*

b) ...

9) ...

10) ...

11) ...

12) *On or around 4 January 2020 did not know how to connect a y-connector.*

13) *Between 9 November & 27 December 2019, during a period of 4 supervised shifts with Colleague A;*

a) *Were unable to make a plan of care for a woman in labour.*

b) *Did not know how to read/use a CTG.*

c) ...

d) *Failed to demonstrate basic knowledge relating to; i) Suturing instruments. ii) Suturing technique.*

e) ...

f)'

The original panel determined the following with regard to impairment:

'The panel found that patients were put at risk of harm as a result of your lack of competence. Your lack of competence had breached the fundamental tenets of the nursing profession, namely that in some areas of key midwifery practice you failed to demonstrate the required standard to deliver safe and effective clinical care on the Birth Unit, and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that upon taking the post at the Trust, you demonstrated a level of insight into your level of competence by accepting a supernumerary role, as you had not practised in a high-pressure clinical hospital environment within the UK for a number of years. The panel accepted that you had previously demonstrated the required standards to qualify as a midwife. However, since the issues had been highlighted and the specific charges had been found proved, you had not accepted that you demonstrated a lack of competence. Further, you have not taken any reasonable steps to rectify the specific issues raised.

The panel was not satisfied that you had sufficiently demonstrated an understanding of how your actions put patients at a risk of harm, how this impacted negatively on the reputation of the midwifery profession, and how you would handle a situation relating to your identified lack of competence in a clinical environment differently in the future.

The panel noted the evidence that you were unable to listen and take on feedback at the time of the concerns. In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the references and training certificates you submitted during this hearing.

However, the panel noted that you failed to fully engage and complete the competencies set by the Trust at the time of the concerns. It considered that despite efforts from management to implement plans, give extensions, communicate policies and procedures, and give instructions to you, the

issues continued and you sought to blame others and accept minimal responsibility. The panel was not satisfied that you had provided sufficient evidence to satisfy it that those areas of concern had been addressed or your practice had been strengthened to the required standard, either by training and/or by any observed clinical practice in similar environments. The panel was of the view that during the hearing, you actively resisted any suggestion that you lacked competence.

The panel had heard and accepted evidence that you were kind to patients. However, the panel concluded that you cannot currently practise safely and professionally as you have not been able to demonstrate your competence in the identified key areas of your practice.

The panel therefore found that there is a risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect 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.

The panel determined that, in this case, a finding of impairment on public interest grounds was required. This is because a well-informed member of the public would be concerned to learn that you lacked competence in fundamental areas of midwifery practice which put patients at risk of harm, and provided no evidence to show that these concerns had been meaningfully addressed.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and

therefore also found your fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel was satisfied that there are identifiable areas of your practice in need of assessment and retraining, and there was also no evidence of general incompetence. It therefore found that workable conditions of practice could be formulated to protect patients and give you the opportunity to address the areas of concern and strengthen your practice.

However, the panel considered that you did not understand the issues identified in this case and you had shown no insight into your failings and how you could and would rectify them. It was of the view that your behaviour throughout these proceedings and your lack of understanding of the panel's findings into the identified areas of your practice, pointed to an

attitudinal problem. Further, the panel was not satisfied that you would be willing to respond positively to retraining. In addition, the panel took account of your submission that you did not intend to return to midwifery practice.

The panel therefore concluded that the placing of conditions on your registration at this stage would not be workable and would not protect the public.

The panel then went on to consider whether a suspension order, which is the maximum sanction available in this case, would be an appropriate sanction. The SG suggests that the following considerations are appropriate in deciding upon a suspension order:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel recognised the evidence that in other areas of midwifery practice, you are a capable midwife who practises well. However, in the areas of concern identified, it noted that there was a lack of insight, no recent supporting evidence of strengthened practice, and no evidence that you are willing to retrain in those areas. The panel also found that 108 there was an attitudinal problem, which you had also demonstrated within the hearing, particularly around recognising the areas that require development. In light of this, the panel was of the view that you pose a significant risk of repeating your mistakes.

The panel noted that a suspension order would temporarily prevent you from working as a registered nurse. It was satisfied that such an order would give you time to:

- *reflect on the areas of practice where you demonstrated a lack of competence and provide meaningful insight into this;*
- *decide on your future intentions as to your midwifery career;*
- *demonstrate a willingness and formulate a proposed action plan to strengthen your practice through training courses and workplace development, etc.*

Balancing all of these factors the panel has concluded that a suspension order is the appropriate and proportionate sanction.

The panel noted the hardship such an order may cause you. However this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour and practice required of a registered midwife.

The panel determined that a suspension order for a period of six months was appropriate in this case to provide you with the opportunity to develop insight into the clinical areas of concern; and reflect on the future of your midwifery practice and communicate your intention to a future reviewing panel.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Kelly's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC considers whether the professional can practice kindly, safely, and professionally. 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 and telephone exchanges between the NMC and Mrs Kelly. It has taken account of the submissions made by Mr Choudhury on behalf of the NMC. He submitted that Mrs Kelly has not provided any of the documentation that the sanctioning panel deemed important for the review. Mr Choudhury also submitted that Mrs Kelly's non-attendance and subsequent lack of positive submissions furthers Mrs Kelly's inability to discharge the persuasive burden placed on her with regards to current impairment.

Mr Choudhury submitted that the majority of charges were previously found proved and involved significant failures of a midwife. Mr Choudhury also submitted that the previous panel made multiple references to Mrs Kelly's attitudinal problems.

Mr Choudhury also referred the panel to several sections of the previous panel's findings on impairment including:

'However, since the issues had been highlighted and the specific charges had been found proved, you had not accepted that you demonstrated a lack of competence. Further, you have not taken any reasonable steps to rectify the specific issues raised. The panel was not satisfied that you had sufficiently demonstrated an understanding of how your actions put patients at a risk of harm, how this impacted negatively on the reputation of the midwifery profession, and how you would handle a situation relating to your identified lack of competence in a clinical environment differently in the future. The panel noted the evidence that you were unable to listen and take on feedback at the time of the concerns.'

Mr Choudhury also submitted that Mrs Kelly has not provided or met any of the recommendations of the previous panel which consisted of:

- *Your continued engagement and attendance at the substantive order review hearing.*
- *A detailed written reflective account which demonstrates your insight into the key issues identified in your clinical practice.*
- *Your willingness to engage in retraining or a development programme in relation to the areas identified.*

- *A clear plan of action in respect of your midwifery practice.*

Mr Choudhury submitted that there is nothing before the panel today to indicate a material change of circumstances from when the suspension order was imposed on 1 August 2024.

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 Kelly's fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Kelly had insufficient insight. At this hearing, the panel had received no evidence from Mrs Kelly to demonstrate that she had reflected on her practice or that she had any insight into the issues identified.

The panel noted that Mrs Kelly resigned from her post in July 2020 and it appears that she has not practised as a midwife in this country for the last 4 and a half years. There was therefore no evidence before the panel of Mrs Kelly's practice being strengthened.

The panel were of the view that some of the failings categorised by the previous panel as: *'Training, skills and comprehension'*, and specifically the: *'Failure to undertake the required e-learning modules/package'* could have been remedied before the current review as this can be undertaken remotely and without working clinically. The panel found that there is no evidence that Mrs Kelly has tried to remedy the concerns in her practice.

The lack of competence relates to a number of fundamental areas of midwifery practice, which occurred over a significant period of time. The original panel determined that Mrs Kelly was liable to repeat matters of the kind found proved. Today's panel has received no new information and Mrs Kelly has not provided any of the evidence recommended by the previous panel. In light of this, this panel determined that Mrs Kelly is 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.

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

Decision and reasons on sanction

Having found Mrs Kelly'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 Mrs Kelly'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 Kelly's lack of competence involves various failings, and all relate to failures in providing the basic standard of care expected of a midwife 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 Kelly'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 bore in mind the

seriousness of the facts found proved at the original hearing. The panel took the view that the lack of competence could be remediable and that conditions could be formulated which would adequately protect the public and satisfy the public interest. However, given Mrs Kelly's lack of insight and that there is no evidence that she understood how her actions impacted on patients, colleagues and the reputation of the profession, the panel deemed that conditions of practice were not workable at this time.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would protect the public and satisfy the public interest. The panel concluded that a suspension order would be the appropriate and proportionate response, and would also afford Mrs Kelly adequate time to further develop her insight and take steps to strengthen their practice.

The panel determined to impose a suspension order for the period of 6 months, this duration reflecting the seriousness of the concerns and the lack of progress which Mrs Kelly has made in terms of demonstrating insight and strengthened practice. A period of 6 months would also provide Mrs Kelly with an opportunity to engage meaningfully with the NMC and provide reflections and evidence of insight and training as well as her future intentions.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 1 March 2025 in accordance with Article 30(1).

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

Any future panel reviewing this case would be assisted by:

- Mrs Kelly's engagement and attendance at the substantive order review hearing.
- A detailed written reflective account which demonstrates Mrs Kelly's insight into the key issues identified in her clinical practice.

- Mrs Kelly's willingness to engage in retraining or a development programme in relation to the areas identified.
- A clear plan of action in respect of Mrs Kelly's midwifery practice.

This will be confirmed to Mrs Kelly in writing.

That concludes this determination.