Conditions of practice order

In this guide
Overview
How does a conditions of practice order protect the public?
When conditions of practice are appropriate
Being fair and protecting the public
Make conditions clear
Conditions of practice imposed as a sanction
When and how to get other people’s input when setting conditions
How conditions and sanctions apply to those registered as both nurse and midwife
Return to practice courses

Overview

When a conditions of practice order is imposed on a nurse or midwife’s registration, they have to comply with the conditions placed on their practice for up to three years.

If conditions of practice are imposed as an interim order, rather than as a sanction, the order allows the nurse or midwife to work while the allegations against them are being investigated.

How does a conditions of practice order protect the public?

Conditions of practice keep patients safe by addressing the concerns that led to the panel deciding the nurse or midwife’s fitness to practise is currently impaired, but also allow the nurse or midwife to continue to work.

Conditions are published on our website and details of any conditions of practice order are made available to anyone enquiring about a nurse or midwife’s registration.

However, we do not publish conditions that relate to a nurse or midwife’s health.

A conditions of practice order is usually reviewed before it expires.

A nurse or midwife must comply with the conditions of a conditions of practice order. It’s a serious problem if they don’t, and it could mean the panel reviewing the order will replace the conditions with a suspension order, or make a striking-off order.

For examples of conditions, decision makers should look at our conditions of practice library.

When conditions of practice are appropriate

The key consideration for the panel, before making this order, is whether conditions can be put in place that will be sufficient to protect patients or service users, and if necessary, address any concerns about public confidence or proper professional standards and conduct.

Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- 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
• the nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision
• 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
• conditions can be created that can be monitored and assessed.

Being fair and protecting the public

To make sure conditions of practice achieve their aim of public protection, in a way that’s fair to the nurse or midwife, they should be **relevant, proportionate, workable and measurable**.

**Relevant** means that the conditions should relate to and address the concerns that led to the panel deciding that the nurse or midwife’s fitness to practise is impaired.

In the case of an interim conditions of practice order, conditions should address the risks to the public, the public interest, and the nurse or midwife’s own interests raised by the allegations.

**Proportionate** means that the conditions must be no more restrictive than necessary to protect the public and uphold confidence in the profession.

They must strike a fair balance between the interests of the nurse or midwife and the public interest. This also includes public protection and public confidence.

There is also a public interest in nurses and midwives being allowed to practise their profession in a safe manner.

**Workable** means that it must be possible for the nurse or midwife to comply with the conditions.

Any conditions imposed should be realistic and practical for a nurse or midwife to comply with. They should not have the effect of amounting to a complete restriction on the nurse or midwife’s ability to practise. It is inevitable that conditions may have the effect of making it more difficult to obtain employment, but this does not mean that the conditions are unworkable.

**Measurable** means that it must be possible to assess objectively whether or not the nurse or midwife has complied with each condition.

The condition must be clear and unambiguous. The question of whether the nurse or midwife has complied with the condition should be capable of being answered ‘yes’ or ‘no’. If the question is capable of being answered ‘It depends…’, the condition is not measurable because it is not specific enough.

The conditions should also ensure that, where necessary, the nurse or midwife is under an obligation to provide us with sufficient information, in sufficient time, to allow the panel at a review hearing to properly consider whether the nurse or midwife has complied with the condition.

Make conditions clear

A conditions of practice order should be easy to read and understand as a stand-alone document, without referring to any other document so with this in mind, when drafting conditions, panels should:

**Use plain English**: Avoid complicated words when simple ones are available. For example, use ‘before’, not ‘prior to’, ‘start’, not ‘commence’.

**Avoid jargon or technical terms**: If it is necessary to use clinical terms, these should be defined clearly in a way that can be understood by a lay person.

**Use unambiguous language**: If a term is used that is capable of being interpreted in different ways by different panels, the panel must provide a clear definition of what it means by that term.

For example, ‘supervision’ is a term that is capable of being interpreted differently by different people. Among other things, it could mean:

• having regular meetings with a supervisor to discuss clinical issues
• working with a supervisor at the other end of a telephone if required
• working with a supervisor who is physically present some, but not all of the time
• being observed at all times by a supervisor.
Accordingly, if a panel considers that there should be a degree of supervision or oversight of the nurse or midwife’s work, it must specify precisely the extent of that oversight. Examples are included in the conditions of practice library.

Be consistent: A conditions of practice library has been prepared to help panels to achieve consistency in the conditions of practice that are imposed. Where the wording of a library condition meets the requirements of the panel, that wording should be used. Where there is no condition in the library that meets the requirements of the panel, the panel must create its own condition.

To help panels to ensure that no conditions are published that should not be, the conditions in the library are divided into public and confidential conditions.

Make sure the obligation to comply is on the nurse or midwife:

Conditions should always put the obligation on the nurse or midwife, not an employer or third party.

For example instead of saying

“Your GP must provide a report to the NMC….”

the condition should say

“You must provide the NMC with a report from your GP”.

Express times and dates clearly: Times and periods of the order must be specified, for example ‘weekly’, ‘on the first day of each month’, or ‘once every three months’ instead of ‘regularly’, and ‘within x days’ instead of ‘promptly’.

Know when the order takes effect: It is important that panels, and nurses and midwives, understand when conditions take effect, and that this is clearly reflected in the order.

Conditions of practice imposed as a sanction

After a nurse or midwife’s fitness to practise has been found to be impaired, conditions of practise order imposed as a sanction, take effect when the period for appealing against the order expires, which is 28 days after we send the nurse or midwife the decision in a letter.

If the nurse or midwife appeals, then the conditions don’t take effect until the appeal is withdrawn or otherwise finally disposed of by the court.

Conditions of practice imposed as a standard review before the expiry of an order take effect from the expiry of the original order.

In the instance of an early review, if the panel decides to extend an existing conditions of the practice order, this also takes effect when the original order would have expired. If an early review panel replaces a different original order (for example suspension) with a conditions of practice order, or varies an existing conditions of practice order, this takes effect immediately.

When and how to get other people’s input when setting conditions

The panel needs to be confident that the conditions of an imposed order are workable, however, neither the nurse or midwife, employer, nor anyone else who may be affected by a conditions of practice order, needs to expressly agree to the terms of the conditions for it to be imposed.

In practical terms though, if a nurse or midwife refuses to comply with conditions, it’s unlikely that the order will be workable.

Where a nurse or midwife is not employed

Conditions may still be workable even where a nurse or midwife is not employed, or doesn’t have a job offer at the time conditions are being considered.

A condition preventing a nurse or midwife from working in a particular environment or role, or from carrying out a particular procedure would still be a workable condition in these circumstances.
The condition doesn’t make any demands of an employer or anyone else for support or input, so there wouldn’t
be any need for anyone to comment on the conditions before the order could be made.

**Where the panel needs the input of an employer or other organisation**

The panel may decide that it needs the input from an employer or other organisation to make sure the conditions
it wants to impose will achieve public protection. This could be further information, advice, or support. If the panel
decides it needs this input, it should give us, the nurse or midwife, any employer, other organisation or person
affected by the order, an opportunity to comment on whether the proposed conditions are workable.

Doing this will help panels to make informed decisions and might avoid the need for early reviews. Where
possible, we’ll try to arrange for any employer or other organisation to be available to comment before any order is
made.

If this hasn’t been possible (for example, because we didn’t know who the employer, proposed employer or other
person or organisation was before the hearing), the panel may take a short break during the day for us to contact
them and get their comments on the proposed conditions.

**Where we can’t get the input the panel needs**

If there’s no evidence to suggest that the relevant organisation or person is available or willing to provide the input
the panel needs to make sure a conditions of practice order will protect the public, a conditions of practice order is
unlikely to be workable.

In these circumstances, the panel will need to move on to consider a suspension order.

Either party can seek an early review of the order should further evidence become available.

If it does impose a suspension order, the panel should explain in its decision what support or input it considered
necessary to protect the public. It should also explain why it considered a conditions of practice order to be
unworkable on the evidence it had.

This will help the nurse or midwife understand what will be needed before a conditions of practice order can be
workable, and give them the chance to gather the necessary evidence before a review hearing.

A case should never be adjourned to another day simply because it has not been possible to obtain the comments
of a third party about a conditions of practice order. This would leave the public unprotected in the meantime.

The panel must make an order that is relevant, proportionate, workable and measurable based on the evidence it
has. Either party can seek an early review of the order should further evidence become available.

**When conditions can be imposed without prior support by an employer**

The panel might decide that the conditions needed to protect the public would need some form of support to be
given to the nurse or midwife, like for example direct supervision by a colleague equivalent to a band 6 nurse. The
panel might anticipate who will provide this support, but perhaps not have specific confirmation that they will do
so. It would be appropriate to go ahead and make the order if the conditions were general in nature, and didn’t
need the particular input of a specific identified person, like in the supervision example. The supervision could be
by any colleague who fit the requirements.

The practical effect of conditions might be that the nurse or midwife is unable to practise until they find a setting or
employer prepared to employ them on the conditions. If the nurse or midwife finds an employer or setting who will
employ them under the conditions, the public have the benefit of a nurse or midwife in practice, but with the limits
to make sure they do not present a risk. The public will be protected either way.4

**How conditions and sanctions apply to those registered as both nurse and
midwife**

Back to top

Our register is made up of parts.

One part of the register is for nurses, and one part is for midwives. Someone entered on our register as a nurse
and as a midwife will only have one single registration with us, but they will be entered on two parts of our
register.
Fitness to practise sanctions apply to all parts of someone’s single registration.

If someone who is a nurse and a midwife has a conditions of practice order, all of the conditions will apply to all parts of their practice, unless the order states otherwise.

For the same reason, a suspension order will apply to all of a nurse or midwife’s single registration. We cannot suspend someone from only one part of the register.

If a panel wants to prevent someone who is registered as both a nurse and a midwife from practising in only one of those professions, it must do so using a conditions of practice order, which would say (for example) ‘you must not practise as a nurse’.

This would be appropriate if someone had problems in one of the professions they practise that are so serious that the panel decides they need to be prevented from practising that profession, but the panel also decided that a complete restriction on all areas of practice would not be necessary to protect the public.

This wouldn’t be equivalent to a suspension order, because it would allow the person to continue to work in one area of their professional practice.

Sometimes, there will be an overlap between the two areas of professional practice. When this happens, panels should consider whether they need to impose particular conditions on the nurse or midwife’s work in the other profession.

In a case with serious clinical problems about only one area of professional practice, like a repeated failure in midwifery care, but also separate failings about a more general part of practice, like record keeping, it may be necessary to prevent the person from working as a midwife, and to impose conditions on their practice as a nurse, to address the record keeping concerns.

This would be a proportionate response if the panel decided it needed to prevent someone practising in one profession, but it also decided they were able to practise safely with restrictions in the other profession.

**Return to practice courses**

These course are intended to be a refresher before returning to registered practice.

Return to practice courses are not designed to remedy concerns about a nurse or midwife’s fitness to practise, so are generally inappropriate for a panel to rely on in place of a conditions of practice order. Nor should a panel direct a nurse or midwife to complete a return to practice course as part of an order.

1 Daraghmeh v General Medical Council [2011] EWHC 2080 (Admin)
2 Article 30 of the Nursing and Midwifery Order 2001 (‘the Order’)
3 Whitehead v General Medical Council [2003] HRLR 9
4 Perry v Nursing and Midwifery Council [2012] EWHC 2275 (Admin)