

Conditions of practice order

Reference: SAN-3c Last Updated: 28/01/2020

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 on more than one part of our register

Return to practice courses and the test of competence

Overview

[Back to top](#)

When a conditions of practice order is imposed on a nurse, midwife or nursing associate'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, midwife or nursing associate to work while the allegations against them are being investigated.

How does a conditions of practice order protect the public?

[Back to top](#)

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

However, we do not publish conditions that relate to a nurse, midwife or nursing associate's health.

A conditions of practice order is usually [reviewed before it expires](#).

A nurse, midwife or nursing associate 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

[Back to top](#)

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, midwife or nursing associate's practice in need of assessment and/or retraining
- no evidence of general incompetence

- potential and willingness to respond positively to retraining
- the nurse, midwife or nursing associate 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

[Back to top](#)

To make sure conditions of practice achieve their aim of public protection, in a way that's fair to the nurse, midwife or nursing associate, 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, midwife or nursing associate'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, midwife or nursing associate'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, midwife or nursing associate and the public interest. This also includes public protection and public confidence.

There is also a public interest in nurses, midwives or nursing associates being allowed to practise their profession in a safe manner.

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

Any conditions imposed should be realistic and practical for a nurse, midwife or nursing associate to comply with. They should not have the effect of amounting to a complete restriction on the nurse, midwife or nursing associate'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.¹

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

The condition must be clear and unambiguous. The question of whether the nurse, midwife or nursing associate 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, midwife or nursing associate 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, midwife or nursing associate has complied with the condition.

Make conditions clear

[Back to top](#)

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, midwife or nursing associate'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, midwife or nursing associate:

Conditions should always put the obligation on the nurse, midwife or nursing associate, 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, midwives and nursing associates, understand when conditions take effect, and that this is clearly reflected in the order.

Conditions of practice imposed as a sanction

[Back to top](#)

After a nurse, midwife or nursing associate'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, midwife or nursing associate the decision in a letter.

If the nurse, midwife or nursing associate 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 order² 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

[Back to top](#)

The panel needs to be confident that the conditions of an imposed order are workable, however, neither the nurse, midwife or nursing associate, 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.³

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

Where a nurse, midwife or nursing associate is not employed

Conditions may still be workable even where a nurse, midwife or nursing associate is not employed, or doesn't

have a job offer at the time conditions are being considered.

A condition preventing a nurse, midwife or nursing associate 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, midwife or nursing associate, 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, midwife or nursing associate 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, midwife or nursing associate, 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, midwife or nursing associate is unable to practise until they find a setting or employer prepared to employ them on the conditions. If the nurse, midwife or nursing associate finds an employer or setting who will employ them under the conditions, the public have the benefit of a nurse, midwife and nursing associate 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 on more than one

part of our register

[Back to top](#)

Our register is made up of parts.

One part of the register is for nurses, one part is for midwives and the final part is for nursing associates. 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, for example, 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 on more than one part of our register 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, midwife or nursing associate'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 or nursing associate, 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 and the test of competence

[Back to top](#)

A nurse or midwife can complete a [return to practice course](#) or [take a test of competence](#) if they cannot meet the NMC's readmission or revalidation practice hours requirements.

Return to practice courses are intended to be a way of updating skills and knowledge before returning to registered practice.

The test of competence is made up of two parts:

- a multiple-choice computer based theoretical test known as the CBT
- a practical test known as the OSCE.

Although return to practice courses and the test of competence may provide relevant evidence that a panel can take into account at a hearing or a review, they are not designed to address specific concerns about a nurse or midwife's fitness to practise.

It would be generally inappropriate for a panel to rely on a return to practise course or test of competence in place of a conditions of practice order. Nor should a panel direct a nurse or midwife to complete a return to practice course or a test of competence 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)

