Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Order Review Meeting

12 August 2019

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant:	Mrs Jane Kentish
NMC PIN:	01B1605E
Part of the register:	Registered Midwife (2004)
Area of Registered Address:	England
Type of Case:	Lack of Competence
Panel Members:	Ilana Tessler (Chair, Lay member) Pamela Campbell (Registrant member) Andrew Macnamara (Lay member)
Legal Assessor:	Iain Burnett
Panel Secretary:	Leigham Malcolm
Order being reviewed:	Suspension Order (12 months)
Fitness to Practise:	Impaired
Outcome:	Striking-off Order, to come into effect at the end of 2 October 2019 in accordance with Article 30 (1)

Service of Notice of Meeting

The panel was informed that the notice of this hearing was sent to Mrs Kentish on 2 July 2019 by recorded delivery and first class post to her registered address.

The panel accepted the advice of the legal assessor.

In the light of the information available the panel was satisfied that notice had been served in accordance with Rules 11A and 34 of The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012) ("the Rules").

Decision and reasons on review of the current order

The panel decided to impose a striking-off order. This order will come into effect at the end of 2 October 2019 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of an order originally imposed by a Conduct and Competence Committee panel on 17 March 2017. On 17 March 2017 a panel imposed a conditions of practice order. That order was reviewed on 7 September 2018 by a Fitness to Practise panel and replaced with a 12 month suspension order. The suspension order is due to expire at the end of 2 October 2019.

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, whilst employed as a band 6 midwife at the Royal Bournemouth and Christchurch NHS Foundation Trust,*
>
> 1. *Failed to demonstrate the standard of knowledge, skill and judgement required for practice without supervision as a Registered Midwife in respect of one or more of charges 1 to 15 below.*
>
> 2. *In relation to Patient A:*
>   - 2.1. *On an unspecified date, did not complete Page 7 of the hand-held records*
>   - 2.2. *Between November 2012 and March 2013 did not refer Patient A to a consultant despite her prescription for Sertraline*
>   - 2.3. *Between November 2012 and March 2013 did not provide correct information to Patient A on birth choices in light of her prescription for Sertraline*
>   - 2.4. *…*

2.5. *On 7 March 2013, failed to sign an entry in the hand held notes*
2.6. *On 7 March, completed 30-40 weeks Venous Thromboembolism ("VTE") pregnancy risk assessment but recorded it in the 20-30 week bracket.*
2.7. *On 28 March 2013, did not ~~test~~ re-test Patient A's urine following her being on antibiotics for a urine infection.*

3. *On 16 May 2013, during an antenatal appointment with Patient O at 38 weeks, did not risk-assess the care pathway*

4. *On 19 May 2013, during an antenatal appointment with Patient N at 38 weeks:*
   4.1. *Did not complete the 30-40 weeks VTE pregnancy risk assessment*
   4.2. *…*

5. *On 23 May 2013, during an antenatal appointment with Patient P at 38 weeks:*
   5.1. *Did not document whether consent was obtained for a vaginal examination*
   5.2. *Did not document the information given to the patient*
   5.3. *Did not document the presentation of the fetus*
   5.4. *Did not risk assess the care pathway*

6. *On 18 June 2013, during a postnatal appointment with Patient M, did not take or in the alternative did not record observations which had not been done since before the birth*

7. *On 20 June 2013, during a postnatal appointment for Patient M:*
   7.1. *Did not complete a maternal progress sheet*
   7.2. *Did not take or in the alternative did not record observations which had not been done since before the birth*
   7.3. *Did not sign the entry in the notes*
8. *On 8 July 2013, during a postnatal appointment 11 days after Patient Q had given birth:*

8.1. Did not document the appointment on the visit sheet

8.2. Did not document a handover to a health visitor on the visit sheet

8.3. Did not document the maternal examination and/or progress

8.4. Did not sign the entry in the notes

9. In relation to Patient B on 15 September 2014:

9.1. …

9.2. Did not document that you had risk-assessed the care pathway

9.3. Did not document the next appointment

10. In relation to Patient B on 1 December 2014:

10.1. …

10.2. Did not document the next appointment

11. In relation to Patient C on 4 September 2014:

11.1. Did not document whether a referral was required

11.2. Did not document when the next appointment was

11.3. Did not risk-assess the care pathway

11.4. …

12. In relation to Patient C on 29 December 2014:

12.1. Did not document whether a referral was required for Patient C

12.2. Did not document when the next appointment was for Patient C

12.3. …

12.4. Did not risk-assess the care pathway

12.5. …

12.6. …

12.7. Did not palpate the lie of Patient C's fetus

12.8. Did not palpate how many 1/5ths palpable the fetal head was

13. In relation to Patient D on 8 and/or 22 December 2014 did not adequately assess the risk pathway

14. In relation to Patient G:

14.1. During the course of her antenatal care, did not document the care pathway on the front of her notes

14.2. On 10 November 2014, did not listen to the fetal heart

14.3. On 12 January 2015, did not palpate how many 1/5ths palpable the fetal head was

15. On 14 January 2015, for Patient E who was 28 weeks gestation:

15.1. Did not document that the fetal heart had been auscultated and/or the duration of auscultation

15.2. Did not document whether fetal movements were felt on palpation

15.3. Did not perform a cardiotocography ("CTG")

The first panel determined the following with regard to impairment:

This panel has considered carefully whether Mrs Kentish'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. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel had regard to all of the documentation before it. It took account of the submissions made by Ms Fleck, on behalf of the NMC.

Ms Fleck submitted, on behalf of the NMC, that there had been no contact from Mrs Kentish since 3 October 2017. She submitted that the risks identified by the original substantive hearing panel had not been minimised, and there had been no evidence of remediation and insight. Ms Fleck therefore submitted that Mrs Kentish's fitness to practise remained impaired. In relation to sanction, Ms Fleck invited the panel to consider the practicability and workability of a conditions of practice order. She submitted conditions of practice require a willingness to

comply with conditions which was not present in this case. Ms Fleck submitted that a suspension order would reflect the concerns raised, provide a proper degree of public protection and maintain the public interest.

The panel 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 Kentish's fitness to practise remains impaired.

The panel noted that there had been no new information from Mrs Kentish since the original substantive hearing. There was no evidence of any insight on her part, nor had there been any evidence of remediation of the previous panel's concerns. Given that there had been no new information, the panel considered that Mrs Kentish remained liable to put patients at risk of harm. The panel therefore determined that a finding of impairment remained necessary on the grounds of public protection.

The panel bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the midwifery profession and upholding proper standards of conduct and performance. In the absence of any new information, the panel considered that Mrs Kentish remained liable to bring the profession into disrepute and to breach fundamental tenets of the profession. The panel therefore determined that a finding of impairment remained necessary on public interest grounds.

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

The first panel determined the following with regard to sanction:

> *Having found Mrs Kentish'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 29 of the Order. The panel also took into account the NMC's Sanctions Guidance ("SG") and bore 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 repetition identified and the seriousness of the case. The panel determined that taking no action would not protect the public and it would not satisfy the public interest.*
>
> *The panel then considered whether to impose a caution order but concluded that this would also be inappropriate in view of the risk of repetition identified and the seriousness of the case. The panel determined that imposing a caution order would not protect the public and it would not satisfy the public interest.*
>
> *The panel next considered whether to impose a conditions of practice order. The panel considered that in light of the fact that Mrs Kentish has not been engaging with the current order, there was no evidence of a willingness to comply with conditions in the future. The panel noted that Mrs Kentish had engaged somewhat, in that on 3 October 2017 she had consented to the revised conditions of practice order following the appeal of the original substantive hearing decision by the Professional Standards Authority. However, since then, there has been no communication from Mrs Kentish. The panel considered that Mrs Kentish could have engaged with theoretical training and it concluded that her failure to do so indicated a disregard for the regulatory process. In these circumstances, the panel determined that it was not possible to formulate practicable and workable conditions which would suitably protect the public and satisfy the public interest.*
>
> *The panel then considered whether to impose a suspension order. The panel was of the view that a suspension order would protect the public, and satisfy the*

public interest, given the seriousness of the failings in this case. It considered that a period of 12 months would be a suitable length of time to give Mrs Kentish the opportunity to reengage with these proceedings and to work toward remediating the concerns identified.

This order will be reviewed shortly before it is due to expire. At a review hearing, another panel may allow the order to lapse, revoke the order, extend the order or replace it with another order, including a striking-off order.

A future reviewing panel may be assisted by evidence of the following:

- *Mrs Kentish's attendance at the review hearing and/or engagement with these proceedings;*
- *Theoretical and/or simulated training undertaken to address the following areas of concern:*
  a) *Record keeping;*
  b) *Patient references;*
  c) *Risk identification and assessment;*
  d) *Antenatal care planning;*
  e) *Communication;*
  f) *Consent;*
  g) *Fetal palpation;*
  h) *Fetal auscultation;*
  i) *Time management.*
- *Testimonials from any work undertaken, paid or unpaid;*
- *A written reflective piece, using a recognised model, such as the Gibbs reflective Cycle, demonstrating insight, remorse and the impact of Mrs Kentish's actions on women in her care, colleagues and on the reputation of the midwifery profession.*

Under Article 30(1) of the Order this order will come into effect on the expiry of the current order, namely at the end of 2 October 2018.

This decision will be confirmed to Mrs Kentish in writing.

Decision on current fitness to practise

This panel has considered carefully whether Mrs Kentish'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. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

The panel has had regard to all of the documentation before it and it has 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 noted that there had been no engagement on behalf of Mrs Kentish nor had there been any new information provided. There was no information before the panel to suggest that Mrs Kentish had any insight into her misconduct nor that she had carried out any remediation. The panel could therefore not be satisfied that Mrs Kentish no longer posed a risk to the public and consequently found her fitness to practise remains impaired on the grounds of public protection.

The panel bore in mind that its primary function was 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.

Determination on sanction

Having found Mrs Kentish'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 further action but concluded that this would be inappropriate given Mrs Kentish's lack of engagement and the absence of any remediation. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel considered whether to impose a caution order but concluded that this would also be inappropriate given Mrs Kentish's lack of engagement and the absence of any remediation. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel was of the view that a conditions of practice order would be inappropriate given Mrs Kentish's lack of engagement. The panel was not assured that Mrs Kentish would be willing or able to comply with any condition of practice imposed.

The panel next considered imposing a further suspension order. The panel noted that Mrs Kentish has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Mrs Kentish no longer posed a risk to the public as her misconduct involved such wide ranging and fundamental clinical errors which were of a lengthy duration. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances, given her persistent non-engagement. The panel determined that the only sanction, at this stage, that would protect the public and serve the public interest was a striking-off order.

This decision will be confirmed to Mrs Kentish in writing.

That concludes this determination.