

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

**Substantive Order Review Hearing
4 August 2020**

Virtual Hearing

Name of registrant: Janice Elaine Hanson

NMC PIN: 9716433E

Part(s) of the register: Registered Midwife – March 2007
Registered Nurse – Sub Part 1
Adult Nursing – September 2000

Area of registered address: West Yorkshire

Type of case: Misconduct

Panel members: Philip Sayce (Chair, Registrant member)
Sophie Kane (Registrant member)
Nicola Dale (Lay member)

Legal Assessor: Ian Ashford-Thom

Panel Secretary: Edmund Wylde

Nursing and Midwifery Council: Represented by Zahra Evans, Case Presenter

Janice Elaine Hanson: Not present and not represented

Order being reviewed: Conditions of practice order (4 months)

Outcome: Striking-off order with immediate effect

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Hanson was not in attendance and that the Notice of Hearing had been sent to Mrs Hanson's registered email address on 2 July 2020.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and venue of the hearing and, amongst other things, information about Mrs Hanson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Ms Evans, 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.

In the light of all of the information available, the panel was satisfied that Mrs Hanson 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 Hanson

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

In an email to the NMC Case Officer dated 24 July 2020, Mrs Hanson stated that "I will not be participating in the review". This was confirmed in an email dated 25 July 2020, where Mrs Hanson stated "I do not wish to participate in the forthcoming review."

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Hanson. In reaching this decision, the panel has considered the submissions of Ms Evans, the correspondence from Mrs Hanson, 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 Hanson;
- The correspondence from Mrs Hanson indicates that Mrs Hanson will not be participating in, or substantively engaging with, these regulatory proceedings;
- There is no reason to suppose that adjourning would secure her attendance at some future date; 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, appropriate and proportionate to proceed in the absence of Mrs Hanson.

Decision and reasons on review of the substantive order

The panel decided to impose a striking-off order with immediate effect.

This is the fifth review of a substantive conditions of practice order originally imposed for a period of 18 months by a panel of the Conduct and Competence Committee on 12 November 2013. This was reviewed on 12 May 2015, by a panel of the Conduct and Competence Committee, and extended for a period of 12 months. On 5 May 2016 the order was reviewed again by a panel of the Conduct and Competence Committee and extended for period of 3 years. An early review took place on 10 May 2017, and the order was varied and extended for a period of 3 years. At the last review hearing on 2 April 2020, the conditions of practice order was extended for a period of 4 months.

The current order is due to expire at the end of 9 September 2020.

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

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

That you, a registered midwife, employed at the Pinderfields Hospital by the Mid Yorkshire Hospitals NHS Trust:

1. *On 31 August 2010 administered an infusion of Syntocinon to Patient A at the incorrect rate.*
2. *On 9 March 2011 provided inadequate care to Patient B in that you:*
 - a. *Did not perform an hourly review of Patient B between 13.30 and 15.10.*
 - b. *Did not interpret Patient B's cardiotacograph (CTG) readings in the notes when you reviewed her at 18:00.*
 - c. *Said to Ms 2 that you intended to complete a vaginal examination on a four hourly basis instead of a three hourly basis.*
 - d. *Did not inform Ms 2 that Patient B's CTG readings were of poor quality between 18:30 and 19:00.*
 - e. *Did not consider using a Foetal Scalp Electrode when Patient B's CTG readings were of poor quality between 18:30 and 19:00.*

And in light of the above your fitness to practise is impaired by reason of your misconduct.

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

The panel noted that Mrs Hanson has not been working as a nurse or midwife since 2018. Before this, Mrs Hanson was working as a nurse under the existing conditions of practice order. However, the panel noted that there was no evidence of any remediation or insight before the panel, in respect of the misconduct found in

2013 or in relation to Mrs Hanson's practice as a Midwife. There was no new evidence of remediation before the panel at all since 2017. The panel therefore determined that Mrs Hanson was liable to repeat matters of the kind found proved, should she return to midwifery practice. The panel 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 Mrs Hanson's fitness to practise remains impaired.

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the public protection concerns identified. 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 public protection issues identified, an order that does not restrict Mrs Hanson's practice would not be appropriate in the circumstances. 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 further conditions of practice order on Mrs Hanson'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 was of the view that a further conditions of practice order was sufficient to protect patients and the wider public interest. The panel noted that there had been no issues with regard to Mrs Hanson's practice as a nurse (rather than as a midwife) since the current conditions had been in place. It therefore found that the current conditions were sufficient to protect the public, whilst allowing Mrs Hanson to practise as a nurse unrestricted, should she wish to.

The panel decided that to impose a suspension order or a striking-off order would be disproportionate at this point as there were no fundamental concerns regarding Mrs Hanson's practice as a nurse. Further, the panel found that public confidence in the profession could be maintained by allowing her to practise with the conditions of practice in place.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 4 months, which will come into effect on the expiry of the current order, namely at the end of 9 May 2020. The panel was of the view that a period of 4 months would give Mrs Hanson an opportunity to make an application to voluntarily remove herself from the register should she so wish, or inform a review panel of her future intentions away from nursing and midwifery.

The panel noted that Mrs Hanson had indicated in her correspondence that she had retired and no longer wished to continue practising, however it did not have the required clear explanation in an evidential format of her plans for the future away from nursing and midwifery to allow the current order to lapse. The panel considered the guidance 'Allowing orders to expire when a nurse or midwife's registration will lapse' in this regard, which states:

'Nurse or midwife doesn't want to continue practising

Because nurses and midwives can apply for readmission to the register as soon as their registration lapses, it is important that the panel is sure that the nurse or midwife no longer wants to practise before it decides to let an order expire. This is because if the panel has found the nurse or midwife's fitness to practise to be currently impaired, the nurse or midwife will not have addressed the concerns about their practice, and will not have shown the

panel that they do not present a risk to patients. The nurse or midwife will need to give the panel a clear explanation of their plans for the future away from nursing or midwifery. Such information is only likely to be available if the nurse or midwife is in contact with us, so it will be important for panels to consider if the nurse or midwife is fully engaging with the process before deciding to take this option.'

Having regard to that guidance, the panel considered that it had scant information and no evidence to support Mrs Hanson's contention that she no longer intended to practise in the nursing and midwifery profession.

The panel decided to continue the following conditions which it considered remained appropriate and proportionate in this case:

- 1. You must not practise in any capacity as a midwife.*
- 2. You must immediately inform the following parties that that you are subject to a conditions of practice order and disclose the conditions listed herein:*
 - a. Any organisation or person employing, contracting with, or using you to undertake midwifery work.*
 - b. Any agency you are registered with or apply to be registered with (at the time of application)*

Any prospective employer (at the time of application)
 - d. Any educational establishment at which you are undertaking a course of study connected with midwifery, or any such establishment to which you apply to take such a course (at the time of application)*
- 3. You must inform the NMC of any professional investigation started against you and any professional disciplinary proceedings taken against you within two days of you receiving notice of them.*

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 9 May 2020 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Hanson has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order. Mrs Hanson should be aware that at that review hearing all options will be open to a future panel, including suspension and striking off orders.

Any future panel reviewing this case would be assisted by:

- *Mrs Hanson's attendance*
- *Evidence that she has retired*
- *Mrs Hanson's clear intention regarding her future away from nursing and midwifery.*

Decision and reasons on current impairment

This panel has considered carefully whether Mrs Hanson'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. It has taken account of the submissions made by Ms Evans on behalf of the NMC. Mrs Hanson has provided no written representations for consideration in her absence.

Ms Evans informed the panel of the background to the case and invited its attention to the relevant documentation before it. She submitted that Mrs Hanson has emailed the NMC Case Officer on numerous occasions to say that she did not wish to participate in the

review hearing today; the panel do not have the benefit of Mrs Hanson's attendance or any evidence as to whether Mrs Hanson remains retired, what she wishes to do while retired, and what her intentions are away from nursing and midwifery. Ms Evans submitted that there is no evidence before the panel of any insight or remediation on Mrs Hanson's part, and that there is no information present to undermine the previous panels' findings that Mrs Hanson's fitness to practise is currently impaired. Ms Evans invited the panel to conclude that Mrs Hanson's fitness to practise is currently impaired on both grounds of public protection and public interest.

As regards the appropriate and proportionate sanction, Ms Evans submitted that to take no action or impose a caution order would not be adequate to protect the public nor address the public interest in this case. She invited the panel to consider the determination of the last reviewing panel and their recommendations for Mrs Hanson. Mrs Hanson has not provided any information in line with those recommendations. Ms Evans submitted that this panel may conclude that an order preventing Mrs Hanson from unrestricted practice remains necessary on ground of public protection and public interest. She concluded her submissions by reminding the panel that the decision on sanction is one for its independent professional judgement, and invited it to consider, if it were minded to impose a further conditions of practice order, that a review of that order (along with recommendations) was appropriate.

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 Hanson's fitness to practise remains impaired. There has been no material change of circumstances since the last review hearing. Mrs Hanson has not engaged with the conditions of practice order, nor the recommendations of the previous reviewing panel, and has not provided any material to demonstrate insight or remediation of her practice to this panel. The concerns around her practice have not been addressed, and therefore the panel concluded that the risk of repetition and of potential harm remains live.

The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection, and is also otherwise in the public interest.

Decision and reasons on sanction

Having found Mrs Hanson'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; such a course of action would not protect the public adequately. The panel decided that it would be neither proportionate nor in the public interest to take no further action. The panel bore in mind the NMC's guidance on allowing an order to lapse, but concluded that, as Mrs Hanson has provided no formal evidence to confirm that she is retired nor a clear explanation of any plans for the future away from nursing or midwifery, it would be inappropriate to take no action and allow the current order to lapse upon expiry.

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 Hanson's practice, such as a caution order, would not be appropriate in the circumstances. The panel considered that a caution order would be inappropriate in view of the issues identified. It 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 order on Mrs Hanson's registration would still be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel noted that, although Mrs Hanson's failings occurred in a midwifery setting, her misconduct relates to matters which are fundamental to both nursing and midwifery practice; Mrs Hanson has provided no evidence of developing insight or attempts at remediation of her

practice. It bore in mind that Mrs Hanson has not engaged with the previously imposed conditions of practice orders for a significant and protracted period of time. The panel could not be satisfied that a further conditions of practice order would be engaged with by Mrs Hanson, such that it would be workable, and therefore concluded that a conditions of practice order would not protect the public appropriately in the circumstances of the case – nor address the public interest, in that it would not mark the seriousness of Mrs Hanson's failings or be appropriate in the light of her disengagement from the regulatory process.

The panel next considered imposing a suspension order. The panel noted that Mrs Hanson has not provided evidence of any remedial steps taken or of insight into her failings. Further, Mrs Hanson made it clear that she does not intend to engage with NMC proceedings, in that she has not engaged with the regulatory process in any meaningful way for a significantly protracted period of time. In these circumstances the panel determined that a period of suspension would not serve any useful purpose.

The panel noted that a striking off order would remove Mrs Hanson from both the nursing and midwifery sections of the NMC register. However, the panel determined that, in the circumstances of the case, it was necessary to impose a sanction that prevents Mrs Hanson from practising in the future, and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order, with immediate effect. It concluded that such an order is the only appropriate and proportionate sanction in the circumstances of this case which has now been ongoing without satisfactory engagement and therefore no resolution for almost ten years. The panel therefore directs the registrar to strike Mrs Hanson name off the register.

This striking-off order will replace the current conditions of practice order with immediate effect in accordance with Article 30(2).

This will be confirmed to Mrs Hanson in writing.

That concludes this determination.