

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

**Substantive Order Review Meeting
10 November 2021**

Virtual Meeting

Name of registrant: Kerri Ann Hamblin

NMC PIN: 09G0152W

Part(s) of the register: Registered Midwife (16 September 2009)

Area of registered address: Cardiff

Type of case: Misconduct

Panel members: Suzy Ashworth (Chair, Lay member)
Pauleen Pratt (Registrant member)
Peter Wrench (Lay member)

Legal Assessor: Ian Ashford-Thom

Panel Secretary: Max Buadi

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking off order to come into effect immediately in accordance with Article 30 (2) and (4)**

Decision and reasons on service of Notice of Meeting

The panel noted that notice of this substantive order review meeting was sent to Mrs Hamblin by email on 16 July 2021. The notice informed Mrs Hamblin that her suspension order would be reviewed at a meeting on or after 8 November 2021, unless she asked for the review to take place at a hearing.

The panel accepted the advice of the legal assessor.

In these circumstances, the panel was satisfied that the notice was sent more than 28 days in advance of this meeting and had been served in accordance with Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel noted that Mrs Hamblin indicated in an email, dated 29 June 2021, that she would be content for this review to take place at a meeting rather than a hearing. The panel was therefore satisfied that it was appropriate to proceed with this review at a meeting.

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect immediately in accordance with Article 30(2) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 November 2019. This order was reviewed on 2 November 2020 and 4 May 2021 and on both occasions the order was extended for a further six months.

The current order is due to expire at the end of 19 December 2021.

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:

- “1) On the night shift of 5 December 2014 to 6 December 2014, you did not keep accurate records in that you:*
- a) Did not record Mother A’s blood pressure in the patient notes following the 22:00 observations;*
 - b) ...*
 - c) Did not record whether a full assessment of Mother A took place in the MEOWS charts;*
 - d) Did not record conversations with Mother A or the plan of care in the maternal records;*
 - e) Did not record in Mother A’s maternal notes that co-codamol was administered at 21:00 and 02:55 hours;*
 - f) Did not record in Mother A’s maternal notes that Pethidine and Cyclizine was administered at 22:00 and 04:10 hours;*
 - g) You did not record whether you completed the abdominal palpation prior to completing the vaginal examination at 23:00 on Mother A;*

- 2) *On the night shift of 5 December 2014 to 6 December 2014, you did not provide adequate care to Mother A in that:*
- a) ...
 - b) ...
 - c) *You did not listen to and/or record whether you listened to the fetal heart at the required frequency;*
 - d) *You did not complete vaginal examinations or palpate Mother A when administering analgesia;*
- 3) *On 9 October 2015;*
- a) *you did not complete full observations of Baby B at 19:00 hours;*
 - b) *You failed to document the reason for not carrying out full observations of Baby B at 19:00 hours;*
- 4) *On 14 June 2016, you:*
- a) ...
 - b) ...
 - c) *Failed to complete a Datix incident form following your errors in charge 4(a) and 4(b) and/or escalate the incident to a Band 7 co-ordinator;*
 - d) *Did not comply with your duty of candour, by informing Mother C that the first injection was unsupervised and/or that it was unclear whether vitamin K was injected;*
 - e) *Did not countersign Colleague A's entries in Baby C's notes;*
 - f) ...
 - g) ...
- 5) *On 23 May 2016 you did not sign the MAR chart to indicate whether eyedrops were administered to Baby D.*

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.”

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

'The panel considered that, while this statement showed regret for the incidents, Mrs Hamblin's insight was in the very early stages. The panel was of the view that her reflection did not demonstrate any understanding or consideration of the impact of her actions on patients, her colleagues, the midwifery profession and the wider public. It also did not address her specific failings, nor what she would do differently in the future to avoid any repetition.'

The panel also had no evidence of any steps Mrs Hamblin has taken to remediate her misconduct. Although Mrs Hamblin has stated that she wishes to retain her PIN and NMC registration, the panel had no evidence to suggest that Mrs Hamblin has taken any steps to keep her midwifery skills and knowledge up to date, nor to address the failings which led to her being suspended from the NMC register. The panel noted the two testimonials provided on behalf of Mrs Hamblin but was unable to attach any significant weight to these, given that the first referee has not worked with Mrs Hamblin since they completed their midwifery training together in 2009, and the second only worked 'a few shifts' with Mrs Hamblin in 2015.'

The panel concluded that, in the absence of any remediation or developed insight, the risk of repetition identified by the two previous panels remained. A finding of current impairment therefore continued to be required to protect patients from unwarranted risk of harm.'

The panel also determined that a finding of current impairment on public interest grounds continued to be required to uphold professional standards and maintain confidence in the midwifery profession and the NMC as its regulator.'

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

'The panel next moved on to consider a further period of suspension. It noted that this would protect patients for the time it was in force. However, it also noted that the previous panel had given Mrs Hamblin a very clear steer as to the level of information and evidence she would be expected to provide if she wished to avoid being permanently removed from the register. While Mrs Hamblin has met some of

these recommendations, this panel was concerned by the lack of any tangible evidence of insight or remediation to support her assertion that she wishes to retain her NMC registration.

The panel therefore gave very serious consideration to a striking-off order. It noted that, at this stage, the burden is on Mrs Hamblin to demonstrate to a panel that she is a safe and effective practitioner who is committed to remediating her previous failings and returning to the profession. A simple statement that she 'would do things differently' and wishes to retain her 'status' as a registered midwife is insufficient if it is not supported by a real understanding of what went wrong and demonstrable evidence that she is taking steps to learn from her past mistakes and become a safer practitioner.

However, the panel was mindful that, following the recommendations of the last panel, Mrs Hamblin has started to re-engage with this process and has shown the beginnings of some insight. The panel decided that, in light of this, it would be disproportionate to permanently remove Mrs Hamblin from the register at this stage, without giving her the opportunity to develop this further and take practical and tangible action to return to the profession, if she wishes.

Balancing these factors, the panel decided that the appropriate and proportionate sanction was a further period of suspension for 6 months. It determined that this period of time would give Mrs Hamblin sufficient time to consider her future intentions regarding midwifery, develop her insight, and take steps to remediate her misconduct.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Hamblin'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, including the NMC bundle and a single line email, dated 29 June 2021, which was the only response from Mrs Hamblin which read, “I am happy to proceed with the meeting.”

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 Hamblin’s fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Mrs Hamblin had no information before it to suggest that she had demonstrated sufficient remorse or insight. This panel had no new information before it to make a different finding.

This panel had no further information from Mrs Hamblin since her second review hearing to demonstrate that the concerns about her practice identified by previous panels have been addressed and were unlikely to reoccur. Mrs Hamblin has not provided any information such as testimonials or current employment references. She has not provided a reflective piece or any evidence of insight into her misconduct. She has not provided any evidence that she has taken steps to remediate her misconduct.

This panel bore in mind that the last reviewing panel gave very clear advice on what it would have been helpful for Mrs Hamblin to do before today’s hearing:

- Mrs Hamblin’s engagement and communication with the NMC;
- A clear indication from Mrs Hamblin as to whether she wishes to actually practise as a midwife in the future (as opposed to simply maintaining her “status” as a member of the profession);
- Information about her current employment situation;
- A written reflective piece to demonstrate her understanding of the impact of her actions on patients, her colleagues, the midwifery profession and the wider public.

- Guidance can be obtained from the Royal College of Nursing's website;
- Evidence of what Mrs Hamblin has done to remediate her failings and to keep her midwifery knowledge and skills up to date, including certificates from any relevant online or in-person training courses;
- Any up-to-date testimonials from current or recent employers or voluntary work, particularly if related to healthcare.

The panel had no evidence to suggest that Mrs Hamblin had produced any additional information or followed the recommendations made by the last reviewing panel, nor has she provided the NMC with any indication as to her future aspirations, specifically with regard to whether she does intend to return to the midwifery profession at some point in the future. It noted that Mrs Hamblin had stated that she wanted to retain her PIN, rather than that she wanted to return to clinical practice.

In light of this lack of information and Mrs Hamblin's lack of engagement, the panel determined that there remains a risk of harm to the public if she was permitted to practise as a midwife without restriction. It also noted that it appears Mrs Hamblin has made no effort to remediate and improve her practise to demonstrate that she is safe to work with patients and concluded that her fitness to practise remains impaired 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 midwifery profession and upholding proper standards of conduct and performance and maintaining the integrity of the NMC register. 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 Hamblin's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Hamblin'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 and the risk of repetition 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 seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Hamblin'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 conditions of practice on Mrs Hamblin's registration would be a sufficient and appropriate response, in the light of the fact that the panel is reviewing a suspension order. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel bore in mind that Mrs Hamblin has not engaged with this hearing nor followed the last reviewing panel's recommendations. It also noted that it has no knowledge of her current circumstances. As a result, the panel could not be satisfied that she would be willing to engage with a conditions of practice order in the future and therefore considered that a conditions of practice order is not workable in this case.

The panel next considered imposing a further suspension order. The panel noted that Mrs Hamblin has not shown remorse for her misconduct. Further, she had not fully demonstrated any insight into her previous failings. The panel has already found that there is a continuing risk to the public. The panel noted it had no information before it to demonstrate any effort made to remediate the issues identified by the original panel and Mrs Hamblin has now had two years to address these concerns. Additionally, Mrs Hamblin has not indicated any desire to return as a practising midwife. It took account of her written statement that was before the last reviewing panel where she stated:

“...Although I have a new career, I wish to maintain my status as a qualified registered midwife and hope that you will allow me to retain my PIN...”

The panel was of the view that Mrs Hamblin has not done what was required of her to maintain her status as a qualified registered midwife.

In these circumstances the panel determined that a further period of suspension would not serve any useful purpose. The panel determined that it was necessary to take action to prevent Mrs Hamblin from practising in the future and concluded that at this stage in what had become protracted proceedings the only proportionate sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Mrs Hamblin’s 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 Hamblin in writing.

That concludes this determination.