

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

**Substantive Order Review Hearing
Monday, 24 April 2023**

Virtual Hearing

Name of Registrant: Asha Ahmed

NMC PIN 15G0007E

Part(s) of the register: Registered Midwife - September 2015

Relevant Location: Kirklees

Type of case: Lack of competence

Panel members: Susan Elizabeth Ball (Chair, registrant member)
Carol Porteous (Registrant member)
Bill Matthews (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Debbie Olawore

Nursing and Midwifery Council: Represented by Chantel Gaber, Case Presenter

Ms Ahmed: Present and not represented at hearing

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (12 month) to come into effect on 12 June 2023 in accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

The panel decided to impose a suspension order for 12 months.

This order will come into effect at the end of 12 June 2023 in accordance with Article 30(1) 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 14 May 2020. This was reviewed on 20 April 2021 and the suspension order was extended for a further 12 month period. The order was again reviewed on 6 May 2022 and the panel imposed a suspension order for a period of 12 months.

The current order is due to expire at the end of 12 June 2023.

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:

1) During the period of your employment with the Calderdale & Huddersfield Trust as a midwife

a) Were unaware of the procedure for priming a line before attaching an IV line to a patient b) Failed to monitor baby A's blood sugar correctly

c) On 17 January 2016 in relation to baby B:

i) Failed to properly document the blood sugar monitoring that you had conducted ii) Failed to correctly monitor their temperature iii) Failed to provide the mother the correct calculation for formula milk

iv) Failed to advise of correct procedure for sterilisation of feeding equipment d) On 17 January 2016 in relation to patient C:

i) Failed to identify the correct dose of syntocinon

ii) Failed to demonstrate the correct procedure for administering IV medication 15

e) On 13 January 2016 in respect of baby D:

i) Used a 'milking' technique to extract blood

ii) Obtained inaccurate blood sugar measurements

f) On 13 January 2016 in respect of baby E:

i) Incorrectly documented that Sophie Lang had completed a second medication check

ii) Failed to document the dose of vitamin administered

g) In respect of baby F:

i) Failed to escalate concerns regarding inability to monitor fetal heartbeat

2) During the period of your employment with the Bradford Teaching Hospitals NHS trust as a midwife

i) Failed to identify a fetal bradycardia on a CTG

ii) Failed to escalate the existence of a fetal bradycardia

iii) During the period 18 June 2017 to 28 June 2017:

i) Failed to maintain infection control by not wearing gloves and / or an apron

ii) Changed incontinence pads without assistance

iii) Documented records on the MEDWAY system using another staff member's details iv) Failed to record baby weight correctly

v) Failed to record maternal age correctly

vi) Failed to complete theatre book correctly

vii) Performed a check on crash trolley unsupervised

viii) Incorrectly recorded presence of drug box on crash trolley during 2(c)(vii) above

ix) Did not provide an adequate handover by omitting patient's BMI from the handover

iv) On 2 July 2017:

h) Did not escalate an unpredictable CTG

ii) Failed to maintain measurements of a fetal heartbeat

i) Maintained you had used a sonicaid to measure a fetal heart beat when you had not v) On 3 July 2017:

- i) Inappropriately moved patient F onto her knees*
- ii) Inappropriately allowed patient F to leave her bed*
- vi) Prior to a second check vaginal examination failed to advise Laura Duxbury Green that patient G had a latex allergy*
- vii) Failed to work under supervision as directed by the Trust or their employees.'*

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

'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 your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had good insight. In your evidence today you demonstrated an understanding of how your lack of competence put patients at a risk of harm.

In relation to remediation, the panel was of the view that your failings are matters which, ordinarily, could be capable of remediation. It bore in mind your evidence, however, that you have not worked as a registered midwife since 2017 and considered that there is no evidence for it to indicate that you have remedied the deficiencies in your practice or now possess the necessary knowledge, skills, and judgement to practise safely as a midwife without restriction. For these reasons, the panel determined that you remain liable to repeat matters of the kind found proved. The panel therefore 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 and midwifery professions 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 that your fitness to practise remains impaired.'

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

'Having found your 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 wide ranging nature of the deficiencies found in your practice, and ongoing public protection concerns. 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 your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that your lack of competence was wide ranging and that a caution order would be inappropriate in view of the issues identified. 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. Due to the extensive nature of the findings of lack of competence, the panel was not able to formulate conditions of practice that would adequately

address the concerns relating to your lack of competence. In coming to this decision the panel took 55 into account the SG in relation to conditions of practice which would only be applicable where;

- There are identifiable areas of the midwife's practice which are in need of retraining,*
- there is no evidence of general incompetence,*
- the conditions will protect patients during the period which they are in force'.*

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the Nursing and Midwifery Council (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 responses from you. It has taken account of the submissions made by Ms Gaber on behalf of the NMC.

Ms Gaber outlined the background to the case and referred the panel to the relevant part of the bundle. She submitted that your fitness to practice is currently impaired.

Ms Gaber submitted that the last panel requested evidence of your engagement with the NMC to find a clear route to return to midwifery practice and noted that you have been engaging minimally by attending hearings, however, you have demonstrated limited engagement towards finding a clear route to return to your midwifery practice.

Ms Gaber submitted that it is a matter for the panel to decide on the most appropriate sanction. However, she submitted that if you continue to engage only by attending hearings, the NMC may reluctantly propose a striking off order.

Ms Gaber submitted that there is no public interest in a prolonged cycle of reviews with no possibility of a return to unrestricted practice. She submitted that if you have a clear plan as to how you would get back to practice, then conditions might be appropriate and if not, the interim suspension order should continue.

You told the panel that you are aware that you are still impaired, as you are currently in the same position as last year, but you intend to return to practice soon.

You told the panel that you made some enquiries last year about doing breast feeding support on a voluntary basis, but you ended up taking a remote part time employment for a water company.

You informed the panel that your aim is still to undertake a breast feeding support role with registered midwives in the hospital and in the community in order to build your confidence. You told the panel that you are also planning to undertake the NMC test of competence in order to return to practice.

You told the panel that you lost your confidence when you did not get the support that you needed at the time of your early practice hence your lack of competence. However, you told the panel that now you would be more realistic and self-aware when you return to practice and ask for help if needed.

You told the panel that you now know how serious the job is and you would not take on board a greater workload than you can handle. You told the panel that since your suspension you have been focusing on your family commitment and you are waiting for the right time to return to practice.

You informed the panel that you are considering undertaking the NMC test of competence as opposed to a NMC Return to practice programme because you are unable to find a local return to practice programme. You also told the panel that the competence test will assist you with your academic issues.

You told the panel that in your first year of midwifery you had sick leave for four weeks because you had a serious accident, and you were pregnant with your first child. In your second year, you took a further period of maternity leave, and in your third year you did not spend much time in the labour ward.

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 your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that you had good insight. At this hearing you have been able to provide some information on how you can improve your competence.

In relation to remediation, the panel was of the view that your failings are matters which, ordinarily, could be capable of remediation. It considered that you have not worked as a registered midwife since 2017 and therefore determined that there is no evidence for it to indicate that you have remediated the deficiencies in your practice or now possess the necessary knowledge, skill, and judgement to practice safely as a midwife.

In light of this, this panel determined that you remain liable to repeat matters of the kind found proved. The panel therefore decided that a finding of current 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 current impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.

Decision and reasons on sanction

Having found your 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 wide ranging nature of the deficiencies found in your practice, and ongoing public protection concerns. 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 your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your lack of competence was wide ranging and that a caution order would be inappropriate in view of the issues identified. The panel 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 on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest at this stage. The panel took into account that you have not practiced as a midwife since 2017 and have no firm plans to return to practice.

The panel was therefore not able to formulate conditions of practice that would adequately address the concerns relating to your lack of competence.

The panel considered the imposition of a further period of suspension.

The panel determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of 12 months which would provide you with an opportunity to engage with the NMC to find a workable way of returning to the midwifery profession.

The panel considered whether, given the period of time that has elapsed since the original concerns, a striking off order was appropriate. On balance, It felt that a further period of a year's suspension will provide you with sufficient time to finalise your future plans and demonstrate progress to a future reviewing panel.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 12 June 2023 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence of engaging with the NMC and a Higher Education Institution to find a clear route to return to midwifery practice.

This will be confirmed to in you in writing.

That concludes this determination.