

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

**Substantive Order Review Meeting
Thursday, 30 November 2023**

Virtual Meeting

Name of Registrant: Maryann Loughlin

NMC PIN 01Y0002S

Part(s) of the register: Registered Midwife
Midwifery – February 2004

Relevant Location: Ayrshire

Type of case: Misconduct

Panel members: Paul Grant (Chair, Lay member)
Richard Curtin (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Gillian Hawken

Hearings Coordinator: Tyrena Agyemang

Order being reviewed: Conditions of practice order (2 years)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (18 months) to come into effect at the end of 12 January 2024 in accordance with Article 30(1)**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Miss Loughlin's registered email address by secure email on 11 October 2023.

The panel took into account that the Notice of Meeting provided details of the review, that the review meeting would be held no sooner than 27 November 2023 and invited Miss Loughlin to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Loughlin has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

Decision and reasons on review of the current order

The panel decided to impose a further conditions of practice order for a period of 18 months. This order will come into effect at the end of 12 January 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fourth review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 13 June 2019. This was reviewed on 2 June 2020 when a conditions of practice order was imposed for a further 12 months. This was reviewed again on 9 July 2021 when a further conditions of practice order for a period of six months was imposed. This order was subsequently reviewed on 6 December 2021. A fitness to practise panel decided to impose a further conditions of practice order for a period of two years.

The current order is due to expire at the end of 12 January 2024.

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 Band 6 Midwife

1. *On a nightshift on 7/8 September 2015, whilst caring for Patient A*
 - a) *...*
 - b) *Upon noting Patient A had a raised blood pressure score on admission, did not carry out regular observations*
 - c) *...*
 - d) *...*
 - e) *Did not hand over to Colleague A that Patient A had a non-reassuring CTG*
 - f) *Did not record all interventions to contact medical staff on the patient notes*

2. *Failed to ensure your CTG training was up to date between September 2015 and June 2016*

3. *On 13 January 2017, whilst caring for Patient B,*
 - a) *Did not carry out a CTG*
 - b) *Did not undertake and/or did not record any observations on Patient B*

4. *On 13 January 2017, whilst caring for Patient C*
 - a) *Did not carry out a CTG and /or failed to record that a CTG was carried out*
 - b) *Did not undertake and/or did not record any observations on Patient C*
 - c) *Did not carry out and/or record any foetal observations*

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:

'In its consideration of whether Miss Loughlin has remedied her practice, the panel took into account that Ms Loughlin has still not found employment and so the current conditions of practice in place have not been complied with. The panel noted that it did not have any evidence of further training undertaken.

The last reviewing panel determined that Miss Loughlin was liable to repeat matters of the kind found proved. Today's panel has received no new information which would change an assessment of Miss Loughlin's risk of repetition of the failings found proved. In light of this, this panel determined that Miss Loughlin is 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 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 that Miss Loughlin's fitness to practise remains impaired.'

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

'...

The panel next considered whether imposing a further conditions of practice order on Miss Loughlin'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 determined that it would be possible to formulate appropriate and practicable conditions which would address the failings highlighted in this case. The panel accepted that Miss Loughlin has been unable to comply with conditions of practice due to her current employment status and [PRIVATE] but is now engaging with the NMC and expressed a continuing desire to return to practise as a midwife.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the original panel did that there were no deep-seated attitudinal problems which would make conditions of practice unworkable. In this case, conditions could be formulated which would protect patients during the period they are in force.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of Miss Loughlin's case because the panel considered her failings to be remediable and were reassured by Miss Loughlin's commitment to return to work as a registered midwife [PRIVATE].

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 2 years, which will come into effect on the expiry of the current order, namely at the end of 12 January 2022. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

- 1. At any time that you are employed or otherwise providing midwifery services, you must place yourself and remain under*

the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of ensuring your completion of your employer's induction process and weekly meetings to discuss your performance and workload until the induction is complete.

2. *You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:*
 - i. *record keeping*
 - ii. *communication*
 - iii. *risk assessment*
 - iv. *plans of care*

3. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 3 months (or more often should it be deemed appropriate) to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*

4. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before any NMC review hearing or meeting.*

5. *[PRIVATE].*

6. *[PRIVATE]*

7. *[PRIVATE]*

8. *[PRIVATE]*

9. *[PRIVATE]*

10. *You must tell the NMC within 14 days of any midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*

11. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*

12. *You must within 14 days of accepting any post or employment requiring registration with the NMC provide the NMC with the name/contact details of the individual or organisation offering the post or employment.*

13. *You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (12) above, to them*

- 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) to provide midwifery services*
- c) Any prospective employer (at the time of application) where you are applying for any midwifery appointment.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Loughlin'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 ability to practise kindly, safely and professionally. 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 an email from Miss Loughlin to the NMC dated 20 August 2023.

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 Miss Loughlin's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Miss Loughlin was liable to repeat matters of the kind found proved. Today's panel concurred with that view. Today's panel was provided with an email from Miss Loughlin dated 20 August 2023, which stated:

'I haven't gained employment as a midwife but i have done some online training which I can send certificates for if this would be useful. I have also been enrolled on a breastfeeding course with the breastfeeding network which commences in September. On completion I will be able to volunteer to support new mothers with breastfeeding and will be registered with the BFN which I hope would help me gain practice hours. [PRIVATE] and I very much hope to practise as a midwife again in the future following CPD and volunteering.'

In its consideration of whether Miss Loughlin has taken steps to strengthen her practice, the panel took into account the email above which states she has not secured employment and therefore has not had the opportunity to engage with the conditions of practice.

The panel noted that Miss Loughlin stated that she had completed some training and that she was starting a breast-feeding course in September 2023, but it had no evidence of the training, such as any certificates of completion, before it today for its consideration.

Further the panel had no new information before it which would demonstrate any change in the assessment of Miss Loughlin's risk of repetition of the failings found proved. In light of this, this panel determined that Miss Loughlin is 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 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 that Miss Loughlin's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Loughlin'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. 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 Miss Loughlin's 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 Miss Loughlin's misconduct was not at the lower end of the spectrum 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 imposing a further conditions of practice order on Miss Loughlin'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 determined that it would be possible to formulate appropriate and practicable conditions which would address the failings highlighted in this case. The panel accepted that Miss Loughlin has been unable to comply with conditions of practice due to her current employment status and [PRIVATE] but has been engaging with the NMC and has expressed a continued desire to return to practise as a midwife.

The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate at this time and would not be a reasonable response in the circumstances of Miss Loughlin's case. The panel considered her failings to be remediable and were again reassured by Miss Loughlin's commitment to return to work as a registered midwife.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months, which will come into effect on the expiry of the

current order, namely at the end of 12 January 2024. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. At any time that you are employed or otherwise providing midwifery services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of ensuring your completion of your employer's induction process and weekly meetings to discuss your performance and workload until the induction is complete.
2. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following areas of your practice:
 - i. record keeping
 - ii. communication
 - iii. risk assessment
 - iv. plans of care
3. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every 3 months (or more often should it be deemed appropriate) to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
4. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before any NMC review hearing or meeting.

5. [PRIVATE]

6. [PRIVATE]

7. [PRIVATE]

8. [PRIVATE]

9. [PRIVATE]

10. You must tell the NMC within 14 days of any midwifery appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.

11. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.

12. You must within 14 days of accepting any post or employment requiring registration with the NMC provide the NMC with the name/contact details of the individual or organisation offering the post or employment.

13. You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (12) above, to them

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) to provide midwifery services

c) Any prospective employer (at the time of application) where you are applying for any midwifery appointment.

The period of this order is for 18 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 12 January 2024 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 Miss Loughlin 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.

Any future panel reviewing this case would be assisted by:

- Engagement with the NMC's proceedings and Miss Loughlin's attendance at the next review hearing;
- Testimonials and/or references, from any to paid or unpaid work;
- Evidence of continued professional development; and
- [PRIVATE]

This will be confirmed to Miss Loughlin in writing.

That concludes this determination.