

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

**Substantive Order Review Hearing  
Thursday, 7 September 2023**

Virtual Hearing

**Name of Registrant:** **Abiola Abiodun Akinnola**

**NMC PIN** 03H1084O

**Part(s) of the register:** Registered Midwife – February 2008

**Relevant Location:** Wolverhampton

**Type of case:** Lack of competence

**Panel members:** Mary Hattie (Chair, Registrant member)  
Alison Lyon (Lay member)  
Zoe Wernikowski (Registrant member)

**Legal Assessor:** Ben Stephenson

**Hearings Coordinator:** Philip Austin

**Nursing and Midwifery Council:** Represented by Tope Adeyemi, Case Presenter

**Ms Akinnola:** Present and represented by Margot Warner

**Order being reviewed:** Conditions of practice order (18 months)

**Fitness to practise:** Currently Impaired

**Outcome:** **Conditions of practice order for (18 months) to come into effect upon expiry of the current order, namely, at the end of 15 September 2023, in accordance with Article 30 (1)**

## Decision and reasons on review of the substantive order

The panel decided to impose a new conditions of practice order for a period of 18 months. This order will come into effect at the end of 15 September 2023, in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (“the Order”).

This is the seventh effective review of a substantive conditions of practice order originally imposed for a period of 12 months by a Conduct and Competence Committee (“CCC”) panel on 11 February 2016. This matter was first reviewed on 7 February 2017, where a CCC panel imposed a conditions of practice order for 12 months. At the second review on 2 February 2018, a panel of the Fitness to Practise Committee (“FtPC”) imposed a conditions of practice order for a further 12 months. At the third review on 15 March 2019, a panel of the FtPC imposed another conditions of practice order for 12 months. At the fourth review on 4 February 2020, a panel of the FtPC imposed a conditions of practice order for an additional 12 months. At the fifth review on 26 February 2021, a panel of the FtPC imposed a conditions of practice order for 12 months. At the sixth review on 3 March 2022, a panel of the FtPC imposed a conditions of practice order for a period of 18 months. The current order is due to expire at the end of 15 September 2023.

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 Registered Midwife by Imperial College Healthcare NHS Trust (“the Trust”) failed to demonstrate the standard of knowledge, skill and judgement required for practice without supervision as a Registered Midwife in that:*

1. *Between 14 March 2013 and 9 July 2013 you failed to meet the standards of the Local Supervising Authority Supervised Practice Programme by*
  - 1.1. *failing to demonstrate competency in elements 1 and 3 of the Accountability proficiency as detailed in Schedule 1*
  - 1.2. *failing to demonstrate competency in elements 1 and 3 of the Effective Communication proficiency as detailed in Schedule 2*

*1.3. failing to demonstrate competency in elements 3.1 to 3.6 inclusive and 4 of the Documentation and Record Keeping proficiency as detailed in Schedule 3*

*1.4. failing to demonstrate competency in all elements of the Use of Prostaglandins to Induce Labour proficiency as detailed in Schedule 4*

*1.5. failing to achieve 40% or more in the academic element in that you achieved 32%*

*And, in light of the above, your fitness to practise is impaired by reason of your lack of competence.*

The sixth effective reviewing panel determined the following with regard to impairment:

*“The panel noted that a review hearing scheduled for 8 February 2022 was postponed partly to allow you time to prepare a reflective statement. The panel was disappointed not to have received an up-to-date reflective statement today and noted that this had been requested on numerous occasions over the years. It bore in mind that you have not been working as a nurse and therefore have not had an opportunity to demonstrate that you are clinically competent. In these circumstances, the panel reached the view that there remains a significant risk of repetition of the facts found proved. The panel therefore decided that a finding of continuing impairment remains 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. A member of the public would be concerned if a nurse or midwife whose practice has been found to be below an acceptable standard was allowed to practise unrestricted when there is no evidence that the practice has been strengthened and the failings addressed.*

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

The sixth effective reviewing panel determined the following with regard to sanction:

*“The panel noted that you said that you had not been able to work in any capacity before October 2021, by which time you said you had been granted leave to remain in the UK, with the right to work. Accordingly, you said that you had not been able to address the conditions of practice until the last 6 months. For this reason the panel decided that it was appropriate to impose a further conditions of practice order for a further period of 18 months.*

*However, the panel was gravely concerned that even after panels in previous years stated that future panels would be assisted by a reflective piece you have still not provided one. Mr Watson, on your behalf, stated that a reflective piece is being prepared with the assistance of your friend, and will be supplied to the NMC in the near future. The panel stresses to you the importance of you being able to demonstrate insight in showing remediation, and emphasises its importance to you. This is because if the next panel is to find that you are no longer impaired you will need to satisfy that panel that you have insight and have strengthened your practice.*

*The panel considered carefully whether a suspension order was proportionate. The panel decided that it would not be proportionate to suspend you from practice, because at the end of a period of suspension issues with competency would not be resolved, and because a suspension order would prevent you undertaking a Return to Practice course or an NMC approved Test of Competence, which is necessary before you can return to practice as a registered nurse or midwife.*

*The panel noted that you stated that you did not intend to return to midwifery practice. This means that the condition preventing you from working as a midwife is appropriate, and not disproportionate. It also means that it would be impossible for you to comply with conditions relating to the practice of midwifery. Accordingly, and as asked for by Mr Watson, condition 3 is varied to revert to the condition imposed in 2020. In addition a small change was made to the wording of condition 2.*

*The panel was greatly concerned by the fact that you, your prospective employer (who is your friend and has been your representative at previous hearings over the last 5 years) and another friend who had offered to act as your mentor and assessor in that employment (although not part of that organisation) all intended that you should start work for that employer, and be signed off as competent by your friend as compliance with the conditions of practice.*

*Mr Watson told the panel that this role is one for which you are required to be a registered nurse. You, your employer and your mentor were all unaware that for you to return to work as a Registered Nurse you have to complete a Return to Practice course or an NMC approved Test of Competence. The panel makes it clear that the conditions do not permit you to work as a registered nurse until you have satisfied the NMC's requirements applicable to every nurse who has an extended break from practice.*

*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 15 March 2022. The panel decided on a period of 18 months to allow you time to obtain and complete a Return to Practice course or an NMC approved Test of Competence, and to meet the conditions. If you have done so in a shorter time it is open to you to apply for an early review of this conditions of practice order.*

*The panel 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 You must not work as a midwife.

- 2 *At any time that you are employed as a registered nurse, you must place yourself and remain under the direct supervision of a workplace line manager, mentor or supervisor nominated by your employer, who must be a registered nurse. Such supervision to consist of working at all times under the direct observation of a registered nurse of band 6 or above until you are assessed as competent by the supervisor nominated by your employer.*
  
- 3 *You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan and a reflective account specifically designed to address the deficiencies in the following areas of your practice:*
  - a) *Appropriate escalation.*
  - b) *Effective communication.*
  - c) *Documentation and record-keeping.*
  
- 4 *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every two weeks, to discuss the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan.*
  
- 5 *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) demonstrating evidence of achieving competence against the identified deficiencies in Condition 3 set out in your Personal Development Plan, including any training certificates or testimonials, to the NMC before any review hearing or meeting.*
  
- 6 *You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
  
- 7 *You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*

- 8 a. *You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with midwifery or nursing, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*
- b. *You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
- 9 *You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress from your nominated supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*
- 10 *You must immediately inform the following parties that 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 (9) above, to them:*
- a. *Any organisation or person employing, contracting with, or using you to undertake nursing work;*
  - b. *Any agency you are registered with or apply to be registered with (at the time of application);*
  - c. *Any prospective employer (at the time of application).*
  - d. *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

*The period of this order is for 18 months.”*

## **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 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 your recent reflective piece. It has taken account of the oral submissions made by Ms Adeyemi, on behalf of the NMC, and the oral submissions from Ms Warner, in support of your case.

Ms Adeyemi took the panel through the background of this case. She submitted that due to issues identified in your practice, you were required to undergo an informal management programme, which included supervised practise. Ms Adeyemi submitted that the main areas of concern were Cardiotocograph ("CTG") interpretation, caring for high-risk women on a high dependency unit, appropriate escalation and effective communication. She submitted that you were also required to work through an improvement plan, but you failed to meet the standards and did not demonstrate a satisfactory level of competency.

Ms Adeyemi submitted that you continue to engage in these proceedings, but thus far, the situation has not progressed significantly since the original hearing. She submitted that you have not been able to sufficiently address the deficiencies identified.

Ms Adeyemi referred the panel to your reflective piece and submitted that, in the NMC's view, there remains an absence of effective remediation. She submitted that your reflection appears to be relatively superficial at this stage, in that it gives an overview of the concerns faced by you, but there is limited information around what you can and should have done better at the time of the incidents. Ms Adeyemi submitted that there should be more depth to your reflection given the amount of time lapsed; however, it may



be that once you have undertaken a period of retraining, you are able to provide further analysis.

Ms Adeyemi invited the panel to find that your fitness to practise remains impaired.

Ms Adeyemi submitted that you have indicated that you intend to undertake a Return to Practice (“RtP”) programme, but you have some concerns about your ability to achieve this based on the current conditions imposed on your registration. Ms Adeyemi submitted that it is not clear what impact, if any, you being subject to direct supervision has on your ability to embark on a RtP programme.

Ms Adeyemi invited the panel to impose a conditions of practice order on the same terms as before.

Ms Warner explained to the panel how she came to be your representative at these proceedings. She stated that you were made subject to a very extensive training programme at your place of work, where you had every single standard of midwifery to address, along with a reflective essay to complete.

Ms Warner informed the panel that you have always admitted to the concerns involving your lack of competence. However, you do take issue with how the training programme was approached by your previous employer; you had tried to be proactive in achieving the required level of competency, but you were given a number of different mentors and your request for an extension was not granted despite the difficulties you had faced. Ms Warner submitted that in being dismissed, you lost your livelihood and your ability to work.

Ms Warner submitted that the concerns around your lack of competency can be remediated through appropriate re-training. She submitted that you recognise the need to do an RtP programme.

Ms Warner took the panel through your current financial circumstances, as well as the recent issues you have faced with your passport and immigration status. She submitted that you had identified a placement to complete the RtP programme, but the University of Birmingham did not let you on the course because your passport was imminently about to

expire. Nonetheless, Ms Warner submitted that these issues appear to have now been resolved, and the University of Birmingham appear to be understanding towards your position, having informed you of another RtP programme starting in April 2024. She submitted that your enrolment on this course is obviously contingent on you having an updated passport and an immigration status which allows you to complete this course.

Ms Warner submitted that you have recognised your areas of weakness and recognise that you have not completed a satisfactory training course. She said that you are aware that you will need to improve and achieve competency in the areas identified. Ms Warner submitted that a large element of the concerns before the panel will be addressed on the RtP programme. She also indicated that you are of the view that there may be insufficient time to address both the concerns in your nursing and midwifery practice, so you will give consideration as to whether to renew your midwifery registration.

Ms Warner agreed that your fitness to practise is currently impaired. However, she drew the panel's attention to condition 2 of the current conditions of practice order, which requires you to be directly supervised until you have been assessed as competent. Ms Warner submitted that this condition was not in the initial conditions of practice order imposed at the substantive hearing, but at a subsequent review for which she was not present. She submitted that the introduction of this condition could be quite problematic for you in trying to enrol on an RtP programme, as your enrolment could be refused on this basis. Ms Warner invited the panel to amend condition 2 to what was imposed initially, requiring you to be subject to indirect supervision, instead of the more restrictive direct supervisory requirement.

Ms Warner confirmed that it is your intention to return to practice at some point in the future.

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 had sight of a reflective piece completed by you, along with the information in relation to the RtP programme. The panel noted that whilst this reflective piece was not required by your conditions of practice order, the previous reviewing panel had raised concerns about how this document had not been forthcoming despite the significant time period that had lapsed since the order was imposed.

In assessing the information provided, this panel agreed with the submission of Ms Adeyemi, that your reflection appeared to be relatively superficial, in that you largely appeared to deflect blame away from yourself for your own deficiencies. It was of the view that you did not give adequate consideration as to how your lack of competence exposed patients in your care to a risk of unwarranted harm, or the impact your conduct could have had on colleagues, the wider public and the professions as a whole. You have not set out what attempts you have made to improve your own nursing and midwifery practice, or keep up to date with the professions you intend to practice in future. The panel considered you to have only demonstrated limited insight within your reflective piece.

The panel noted that since the last review hearing, you have not been able to obtain work as a registered nurse. Your current conditions of practice order prohibits you from working as a registered midwife.

The panel noted that you are required to complete a RtP programme before working in a registered capacity, due to the significant period of time since you last practised. It was aware that you had previously enquired about enrolling on a RtP programme, but due to passport and immigration issues, you were unable to complete this course. However, new dates for a RtP programme have been proposed to you, and you intend to enrol on a course commencing in April 2024. The panel noted that this would be the first step for you in attempting to strengthen your practice in the areas identified as deficient, before you could return to a nursing or midwifery environment.

Whilst you have not been able to find work in a nursing environment, the panel was of the view that it would still have been possible for you to have attempted to address some of the concerns identified in the intervening period. However, it determined that you had not

made any real progress in doing so. You have not provided the panel with any evidence of training, or in keeping your nursing/midwifery knowledge up to date.

In the absence of any evidence to the contrary, the panel could not be satisfied that you no longer pose a risk to patient safety. It had no evidence before it to suggest that the risk of harm had reduced. Therefore, the panel considered there to be a real risk of repetition of the events and a risk of significant harm to patients in your care, should you be permitted to return to unrestricted practice. The panel decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel bore in mind the overarching objective of the NMC: to protect, promote and maintain the health, safety and well-being of the public and patients and the wider public interest which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. As you have not yet addressed the concerns identified by the previous panel, this panel determined that, in these circumstances, a finding of continuing impairment on public interest grounds is required. It was of the view that a fully informed member of the public, who was aware of all the evidence presented in this case, would be concerned by your lack of competence, and would expect a panel to make a finding that your fitness to practise remains impaired, in the absence of any new evidence to the contrary.

For these reasons, the panel finds that your fitness to practise remains impaired on the grounds of public protection and also in the public interest.

### **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 risk of harm identified, the risk of repetition, and the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution order but concluded that this would be inappropriate in view of the risk of harm identified, the risk of repetition, and the seriousness of the case. It had regard to the SG which 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 determined that your lack of competence was not at the lower end of the spectrum of fitness to practise and decided that it would be neither proportionate nor in the public interest to impose a caution order. Imposing a caution order would not provide the public with any protection whatsoever.

The panel next considered the imposition of another conditions of practice order. It noted that such an order is often appropriate where there are identifiable areas of practice in need of assessment or retraining. Any conditions have to be workable, measurable and proportionate.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. It was of the view that a conditions of practice order is sufficient to protect patients and address the wider public interest concerns identified in this case. However, the panel was concerned that you have not made significant progress in addressing these concerns, despite being given ample opportunity. In particular, it had remaining concerns around your lack of insight. Nonetheless, the panel acknowledged the difficulties you have in attempting to embark on a RtP programme, largely involving your passport and immigration status. It recognised that this may have hampered your progress in returning to practice. The panel was of the view that the concerns identified are capable of remediation, and that a further period of conditional registration would permit you the opportunity of strengthening your practice. You have identified a place to undertake your RtP programme having made enquiries, and you have been notified of future dates for when this course will begin.

In light of the above, the panel was of the view that to impose a suspension order or a striking-off order at the current time would be disproportionate. It would not be a reasonable response in the circumstances of this case, given that you remain engaged in these proceedings and have indicated a willingness to improve your practice. Whilst you are yet to make significant progress in addressing the concerns identified, you have formulated a plan as to how to go about doing so.

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 15 September 2023. It acknowledged the submission of Ms Warner, that you may have an increased difficulty in enrolling on a RtP programme whilst subject to direct supervision and, whilst it had not had sight of any evidence of this, the panel was satisfied that the public could be adequately protected by amending condition 2 to include the lesser requirement of indirect supervision. Therefore, the panel 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 *You must not work as a midwife.*
  
- 2 *At any time that you are employed as a registered nurse or otherwise providing nursing 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 working at all times on the same shift as, but not necessarily under the direct observation of, a registered nurse of band 6 or above who is physically present in or on the same ward, unit, floor or home that you are working in or on.*

- 3 *You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan and a reflective account specifically designed to address the deficiencies in the following areas of your practice:*
  - a) *Appropriate escalation.*
  - b) *Effective communication.*
  - c) *Documentation and record-keeping.*
  
- 4 *You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every two weeks, to discuss the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan.*
  
- 5 *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) demonstrating evidence of achieving competence against the identified deficiencies in Condition 3 set out in your Personal Development Plan, including any training certificates or testimonials, to the NMC before any review hearing or meeting.*
  
- 6 *You must forward to the NMC a copy of your personal development plan within 28 days of the date on which these conditions become effective or the date on which you take up an appointment, whichever is sooner.*
  
- 7 *You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
  
- 8 a. *You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with midwifery or nursing, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.*

*b. You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*

*9 You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress from your nominated supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.*

*10 You must immediately inform the following parties that 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 (9) above, to them:*

- a. Any organisation or person employing, contracting with, or using you to undertake nursing work;*
- b. Any agency you are registered with or apply to be registered with (at the time of application);*
- c. Any prospective employer (at the time of application).*
- d. Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

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 15 September 2023, 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 you 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:



- Evidence of enrolment/successful completion of a RtP programme and any attempts made to secure work as a registered nurse.
- A reflective piece focusing on your lack of competence, and how your actions impacted upon patients, their families, colleagues, the wider public and the professions as a whole.
- Evidence of you having kept your nursing practice up to date, and any continuous professional development you have undertaken.
- Up to date professional references from any employer, mentor or supervisor.

This will be confirmed to you in writing.

That concludes this determination.