Nursing and Midwifery Council Fitness to Practise Committee

Substantive Order Review Hearing Thursday, 4 December 2025

Virtual Hearing

Name of Registrant: Rachel Mugechi Muchoki

NMC PIN: 16H0400E

Part(s) of the register: Registered Midwife - 9 September 2016

Type of case: Lack of competence/Health

Panel members: Paul O'Connor (Chair, Lay member)

Lauren Harrison (Registrant member)

John Marley (Lay member)

Legal Assessor: Richard Ferry-Swainson

Hearings Coordinator: Eyram Anka

Nursing and Midwifery

Council:

Represented by Ben Edwards, Case Presenter

Mrs Muchoki: Present and represented by Wafa Shah, Counsel,

instructed by Thompsons Solicitors

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: Suspension order (6 months) to come into effect

on 13 January 2025 in accordance with Article 30

(1)

Decision and reasons on application for hearing to be held in private

Mr Edwards, on behalf of the Nursing and Midwifery Council (NMC), made an application for this case to be held entirely in private on the basis that proper exploration of your case involves reference to your health. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Shah supported the application on your behalf.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Although the panel heard that there will be reference to your health, the panel determined that as a significant part of this case concerns competency issues and the panel deemed it appropriate for those parts to be heard in public. As such, the panel decided to go into private session as and when matters relating to your health are raised, in order to protect your privacy. The rest of the hearing will be conducted in public in the usual way.

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order.

This order will come into effect at the end of 13 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 13 December 2024.

The current order is due to expire at the end of 13 January 2026.

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 a registered midwife, between 1 September 2016 and 17 September 2020 failed to demonstrate the standards of knowledge, skill, and judgment required to practise without supervision as a band 5/6 midwife, in that you;

- Did not fully complete your competencies/preceptorship programme which commenced in September 2016.
- During one-to-one supervised shifts commencing on 12 October 2016, on one or more occasion;
 - a. Were slow in recording documentation.
 - b. Prioritised written documentation over providing urgent care.
 - c. Did not realise that Patient C had given birth to their baby in a water pool.
 - d. Were unable to escalate concerns to senior staff members
 - e. Were unable to operate the electronic intravenous pumps on the labour ward.
 - f. Were unable to change bags of I.V. fluid in the timeframe appropriate for the clinical situation
- 3) Were unable to demonstrate proficiency in/complete your programme whilst having plus 1 named mentor support on the Labour Ward between 12 October 2016 and 28 December 2016, in the following areas;
 - a. Communication with patients
 - b. Normal labour & birth
 - c. Medicines management
 - d. Information from vaginal examinations.
 - e. Use of medical equipment

- 4) On or around 14 October 2016;
 - a) Were unable to perform a vaginal examination correctly.
 - b) Incorrectly inserted a catheter into an unknown patient's vagina
 - c) Incorrectly attempted to break the waters of an unknown patient in labour.
- 5) Between 14 October 2016 and 23 December 2016 worked continuously in a supernumerary role.
- 6) Between 6 November 2016 and 13 December 2016;
 - a. Were unable to comply with a competency checklist.
 - b. Were unable to utilise a learning tool.
- 7) Were unable to successfully complete a 4-week action plan commencing 27 November 2016 as you were unable to:
 - a. Create adequate care plans for one or more patients;
 - b. Apply guidelines to individual patients.
 - c. Identify clinical mistakes
- 8) On 20 December 2016:
 - a. Selected the wrong tool to assess a fetal heart rate.
 - b. Were unable to prioritise care needs.
- 9) On unknown dates, whilst providing care to one or more new mothers;
 - a) Did not explain the difference between breastfeeding and formula milk.
 - b) Did not explain that formula milk is heavier and could inhibit a newborn's ability to want to feed from the breast.

And in light of the above and charges 10-18, below, your fitness to practise is impaired by reason of your lack of competence.

10) That you a registered midwife, have suffered from and/or are currently suffering from the medical condition set out in Schedule 1 [PRIVATE]

And as a consequence of your health condition;

- 11) On 16 September 2019 whilst providing midwifery care to Patient X;
 - a) Did not provide adequate care/support to Patient X whilst they were in pain due to contractions/labour
 - b) Asked one of Patient X's family members to hold the Doppler ultrasound whilst you left the room to contact the labour ward coordinator
 - c) Did not adequately communicate to Patient X/Patient X's family why the Oxytocin drip was resumed.
 - d) were unable to demonstrate proficiency in;
 - i) Usage of Oxytocin guidelines
 - ii) CTG interpretation/Change of care plan
- 12) Between October 2019 and April 2020, whilst working on the Infant Feeding Team,
 - a) Did not communicate with colleagues/management adequately, in that you, on one or more occasion;
 - i) Did not approach your line manager to discuss care plans.
 - ii) ...
 - iii) Did not discuss or request feedback
 - iv) ...
- b) During tongue tie clinics, were unable to demonstrate proficiency in;
 - i) Securing babies;
 - ii) Handling babies.
 - iii) Holdings babies in a towel.
 - iv) Did not communicate advice adequately with patients.
- 13) Around 22 January 2020;
 - a) ...
 - b) Did not know how to operate a breast pump.
- 14) On 28 April 2020, after having a supervision meeting with Colleague X, left your shift incomplete.

- 15) On 11 September 2020
- a) Incorrectly discharged Patient A with Patient Z's postnatal discharge notes/pack.
 - b) Did not;
 - *i)* Contact the Community Midwife Team regarding Patient A's discharge.
 - ii) Email a discharge summary to the Community Midwife Team regarding Patient A's discharge.
 - c) After noting/being informed that Baby C was looking 'blue' in colour/having difficulty breathing, did not adequately escalate Baby C's condition, in that you;
 - i) Failed to pull/press the emergency call bell.
 - ii) Did not assess Baby C's breathing.
 - iii) Did not assess Baby C's airways.
 - iv) Did not assess Baby C's circulation.
 - v) Did not move Baby C to the resuscitaire.
 - vi) Went to look for Colleague Y/the Midwife in charge of Baby C
 - vii) Went to look for a stethoscope/thermometer
- d) When asked by Colleague Y if you had taken any action regarding Baby C colour/breathing difficulties, you responded using words to the effect 'Nothing it is your lady'.
- e) Did not know how to use a SATS monitor.
- 16) ...
- 17) Were unable to complete a 4-week capability assessment commencing between 17 June 2020 29 July 2020.

AND in light of the above charges 10-17, and/or any associated and/or consequential health conditions, your fitness to practice is impaired by reason of your health.

- 18. On an unknown date between 1 September 2016 and 12 October 2016, during a spontaneous vaginal delivery were unable to prioritise tasks in that you;
- a) Did not have a delivery pack ready.
- b) Did not check the baby's heartbeat during the second stage of labour using a cardio-tachogram.
- c) Put on sterile gloves before opening a delivery pack.'

The original panel determined the following with regard to impairment in relation to lack of competence:

'The panel found that limbs (a), (b) and (c) were engaged. Limb (d) did not apply in this case.

The panel found that patients were put at unwarranted risk of harm and could have been caused physical and emotional harm as a result of your lack of competence. Your lack of competence gave rise to breaches of fundamental tenets of the midwifery profession and therefore brought its reputation into disrepute.

The panel considered that the concerns are remediable. It noted that you have provided a reflective statement which demonstrated your knowledge of midwifery, however it found that this was not reflected in your clinical skills. You also acknowledged that some of the charges found proved did amount to lack of competence. The panel noted that your reflection was very limited and did not fully address the impact your actions had on patients, your colleagues and the midwifery profession.

The panel considered that you had completed some training and provided evidence of this. However, you were unable to demonstrate your application of this training in your clinical practice. There was a lack of evidence before the panel that demonstrated you have completed the competencies for a midwife or working in a pressurised environment.

There was evidence before the panel that you had theoretical aptitude but had difficulties implementing your knowledge in practical clinical circumstances.

The Panel had regard to the statement of Witness 4:

'On paper, the Registrant could meet the standards of what we needed on Ward 22 from a Midwife...they had audited well during the UNICEF BFI audit and in conversations about skills they did very well. There was however a large deficit between this and the everyday practise of a midwife. The Registrant struggled to multi-task assess risk and meet the needs of the mothers and babies. The registrant did not seem to meet the emotional requirements of patients and offer confident knowledgeable support there was evidence based and indicative of an infant feeding midwife. The Registrant's capability ended when tasks were no longer specific'.

The panel noted that you are currently working as a booking midwife and working in post-natal clinics. You told the panel that you aspire to work in a case loading team within the community and the panel recalled you also stated this to your manager as early as 2017. There is little before the panel that shows you have made an improvement in fundamental areas of midwifery practice or how you would manage a normal birth or a water birth. The panel was of the view that you need to demonstrate competency in the full role of a midwife and not just in a specific and limited area of practice. The panel had sight of a testimonial provided by your current line manager dated 27 March 2024, which described your current role:

'Rachel Muchoki is an employee of mine and I have known her since the commencement of her employment on 02/10/2023. Rachel has been employed at the Trust as a Booking Midwife and therefore does not attend to women/birthing persons in labour and does not participate in the Community on call rota. She has always been polite and professional and she was open and honest at her interview about an NMC investigation that was on-going.'

The panel had limited evidence that you have strengthened your practice as you are yet to pass your midwifery competencies. The panel is of the view that there is a risk of repetition of the facts found proved. It therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold and protect 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.

The panel determined that, in this case, a well-informed member of the public would be concerned that a midwife who despite significant support from the Trust over a four year period had not been deemed competent was allowed to practice unrestricted. It therefore finds impairment on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired because of your lack of competence.'

The original panel determined the following with regard to impairment in relation health:

'[PRIVATE].'

The original panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- No evidence of harmful deep-seated personality or attitudinal problems;
- In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and
- In cases where the only issue relates to the nurse or midwife's
 lack of competence, there is a risk to patient safety if they were
 allowed to continue to practise even with conditions.

The panel noted that you lack insight into your current skill level and also lack insight into the potential harm that may have been caused by your actions or omissions to vulnerable mothers and their babies. Your reflection did not adequately address the potential impact of your lack of competency on mothers, babies and colleagues or recognise the potential seriousness of the consequences of this. Therefore, the panel could not be satisfied that you fully appreciated the risk that your lack of competence and/or your health concerns may have had on others. Without this insight your lack of competence and to a lesser extent [PRIVATE] would present a real risk of repetition with a consequent risk to patient safety.

The panel therefore accepted the submissions of Mr Hoskins that the incidents were not isolated and there was a significant risk of repetition. The panel reminded itself of its previous decision in which it found that you are unable to relate your academic knowledge to your practical clinical skills and the panel agreed with Mr Hoskins submission that this indicated a relevant behaviour. In the panel's view this behaviour is relevant to the risk you continue to present to patients. The panel's findings show a repeated pattern of issues suggesting you have had difficulties over a lengthy period, in implementing theoretical learning and building the necessary practical clinical skills to carry out the role of a midwife safely, despite considerable support and close supervision.

The panel did not consider strike-off as this was not available to the panel.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered midwife.

The panel determined that a suspension order for a period of 12 months with a review was necessary in this case to mark the seriousness and wide-ranging extent of your lack of competence [PRIVATE] when working in a typical midwifery work environment. This length of the suspension order would give you the opportunity for continued engagement with the regulatory process, to fully reflect on the charges found proved and take actions to remediate your practice whilst managing and maintaining your health.

At 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:

- A fully developed reflection which demonstrates your insight into your abilities and clinical skills as a midwife, and the impact of your actions or omissions on women, their babies, colleagues and the wider midwifery profession.
- Evidence of professional development, including documentary evidence of completion of courses which address themes in the charges found proved.
- A plan on how you intend to demonstrate your competence in a typical midwifery work environment.

• [PRIVATE].'

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 had regard to all of the documentation before it and took into account of the submissions made by Mr Edwards and Ms Shah.

Mr Edwards gave a background to the case and outlined the original panel's decision and reasons.

You gave evidence under oath.

You stated that you are currently working as an Executive Officer for the Civil Service and outlined your roles and responsibilities. This includes helping claimants to secure jobs, acting as an advocate to make sure their health and other needs are met, conducting risk assessments to determine whether they are fit to work or whether a referral to a work capability assessor is required.

You stated that during the time that you have worked in your current role, there have never been any complaints about your record keeping.

You took the panel through what you believe the reasons are for not reaching your potential and the standards expected of a registered midwife. You stated that you declared your health conditions when you qualified as a midwife but were not supported through your transition from student to qualified midwife. You said that

despite declaring your health conditions, reasonable adjustments were not put in place for you. However, you acknowledge that you made errors which put your patients and colleagues at risk.

You told the panel that upon reflection you realised that you needed more support because of your health condition. In relation to what you would do differently; you would advocate for yourself and ask to be present in the support plan meetings to make sure that reasonable adjustments are put in place to support your practice.

However, you recognise that there are areas in which you could have improved as well. For instance, you should have been involved in the support plan meetings so that they received your input. You also feel like you should have escalated your concerns about the lack of support in addition to the emails you sent expressing your concerns. Furthermore, you recognise that there were areas of your competence that you could have improved on, such as not completing your preceptorship programme and your e-learning.

In relation to the communication concerns, you said that you would now acknowledge the feedback that is given to you by your colleagues and assess it in a reflective way and work together to find a workable solution. You said you will use the relevant communication training you have completed.

You said that you have been working with the Director of NMC Watch to improve your practice and keep up to date during your suspension. You created a learning matrix to address the concerns outlined in the charges found proved and how to remediate those concerns. You have also been reading to aid in your reflection and have completed relevant training, in order to develop your insight and strengthen your practice. You took the panel through the relevant training completed which included e-learning, live sessions, discussions with practising midwives, simulations, observations of a midwifery support person, Cardiotocography (CTG) Masterclass and attending an antenatal support group.

You outlined the impact your actions had on the reputation of the midwifery profession, stating that the public would lose confidence in the profession and patients may refuse to access the services.

You stated that if you were permitted to practise and managed to secure a job, you would engage with the preceptorship program and any further learning or training required. You informed the panel that you thoroughly enjoyed your previous role as a Booking Community Midwife, and you would like to return to this role if permitted to practise.

[PRIVATE]. [PRIVATE].

Mr Edwards submitted that your reflective statement is an improvement on your position at the original hearing. Whilst there are signs of developing insight, it was his submission that you have not sufficiently demonstrated adequate insight into your failings and lack of competence and how it affected patients, the wider profession and your colleagues.

Mr Edwards submitted that you have made progress in respect of your reflective process and your insight. However, there remains a concern that if you were permitted to practise unrestricted at this time, there would be a risk of repetition.

[PRIVATE].

'[PRIVATE].'

[PRIVATE].

In respect of the charges found proved in relation to lack of competence, Mr Edwards reminded the panel that they were wide ranging and spanned a whole array of issues from basic midwifery techniques and processes to more serious issues. Mr Edwards' submission was that whilst you have made some improvement and have engaged with several resources in order to strengthen your practice, you have not

sufficiently demonstrated that you would not be a risk to the public if permitted to practise unrestricted.

Mr Edwards argued that there remain concerns in relation to your insight into the overall effects of your failings on the patients and the midwifery profession. He stated that in your oral evidence, you appeared to apportion blame on other people for your actions and/or failings rather than directly addressing your own failings. He argued that whilst the points you put forward about your reasonable adjustments may be true, you, as a registered midwife, are responsible for ensuring that you are able to practise safely and effectively.

Mr Edwards noted that you have taken positive steps forward through further training and engaging with NMC Watch. He acknowledged that when a registrant is suspended from practice, there are limitations in what they can do in order to demonstrate to a future panel that they have strengthened their practice. Mr Edwards submitted that despite the positive steps you have taken in the last year to strengthen your practice, there still remains a real risk of repetition. As such, he invited the panel to find that your fitness to practice is impaired on the grounds of public protection and public interest, in respect of the lack of competence aspect of this case in particular.

Mr Edwards submitted that there is a need for an order to remain in place for the time being.

Ms Shah submitted that it is clear that you have not had the opportunity to put all of the learning and work you have done over the past year into practice. As such, she submitted that you recognise that there will be a period of time that there will be some restrictions on your practice, if permitted to return to practice.

Ms Shah invited the panel to consider replacing the current suspension order with a conditions of practice order. She invited the panel to consider the following conditions:

- To work with a single employer which must not be an agency
- Maintain a professional development plan (PDP) at any new workplace and complete a preceptorship programme
- PDP must cover the areas of concerns that have been highlighted through the charges found proved by the previous panel
- Maintain a reflective practice log which includes any training and updates
- Complete a fortnightly supervision session and provide an update from your supervisor prior to any review
- [PRIVATE]
- [PRIVATE]

Ms Shah referred to your reflection and asked the panel to consider that you outlined each charge and identified how you put patients at risk of harm. She stated that during your oral evidence you spoke about the impact your competency issues had on patients and the midwifery profession. Furthermore, she submitted that you reflected on the fact that your failings affected your colleagues and identified that your actions fundamentally brought the nursing profession into disrepute by undermining trust. It was Ms Shah's submission that you have demonstrated insight into your failings.

Ms Shah submitted that your evidence about your reasonable adjustments was not based on other people's failures but to demonstrate that you understand that you have to advocate for yourself and be more proactive in speaking to your managers and asking to be involved in any decisions about support that is being provided to you. She put to the panel that you are committed to improving your practice.

Ms Shah invited the panel to find that albeit your fitness to practice is still impaired, a conditions of practice order can be imposed to enable you to start working on your competencies. [PRIVATE].

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.

Health

[PRIVATE]

Accordingly, the panel concluded that your fitness to practise is no longer impaired by reason of your health.

Lack of competence

At this hearing the panel considered that it has not seen evidence to suggest that your level of insight has fully developed.

The panel noted that you never completed your preceptorship programme or any induction. It bore in mind that there were an extensive range of issues from the fundamentals of midwifery practice to more serious concerns. The panel determined that you have not demonstrated an understanding of how your actions put the patients at risk of harm, nor an understanding of why what you did was wrong, nor how this impacted negatively on the reputation of the nursing profession.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the relevant training you have undertaken and your detailed reflection. The panel acknowledged that, through your current circumstances, you have not been able to put into practice the relevant training you have undertaken. The panel determined that your relevant training shows your motivation to return to practice. However, in the panel's judgement the fundamental issues identified have yet to be remedied. Furthermore, it found that your reflection, although detailed, was not focused on patient safety and did not meaningfully reflect on your failings.

The panel determined that whilst the concerns are remediable, they are yet to be practically tested in a midwifery setting. Therefore, the panel was not persuaded that it is highly unlikely to be repeated. The panel therefore decided that a finding of continuing impairment is necessary on the ground 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. In the panel's judgment, the public would be deeply troubled if a finding of impairment were not made given the wide-ranging competency issues. 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.

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. 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 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 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 noted the widespread and fundamental nature of the clinical failings in this case. Notwithstanding this, the panel considered that ordinarily conditions could be formulated to deal with such clinical failings. However, for conditions to be workable, the panel has to be satisfied that your insight into your lack of competence is sufficiently developed to ensure that the public would be adequately protected. Unfortunately, the panel was not satisfied that your insight was sufficiently developed and therefore conditions would not be workable at this time.

The panel considered the imposition of a further period of suspension. The panel determined that your insight is not yet as developed as it needs to be in terms of the impacts of your actions on patients and your colleagues. The panel is not satisfied that you have demonstrated a meaningful understanding of why your actions were so serious. In the panel's view, it is foundational and fundamental to have insight and knowledge into why patient safety was put risk at a result of your failings. The panel found that your reflection was more formulaic than personal.

The panel was of the view that a suspension order would allow you further time to fully reflect on your previous failings. The panel determined therefore that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. The panel concluded that a further 6-month suspension order would be the appropriate and proportionate response and would afford you adequate time to further develop your insight and take steps to strengthen your practice. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 13 January 2025 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:

- A plan on how you intend to demonstrate your competence in a typical midwifery work environment.
- An outline of how you plan to return to practice and/or how you plan to engage with a preceptorship programme.
- A fully developed reflection which demonstrates your insight into your abilities and clinical skills as a midwife, and the impact of your actions or omissions on women, their babies, colleagues and the wider midwifery profession. You may be assisted by using the NMC reflective template.

This will be confirmed to you in writing.

That concludes this determination.