

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

**Substantive Order Review Hearing
Monday, 01 September 2025**

Virtual Hearing

Name of Registrant:	Miss Shanice Gardener
NMC PIN:	20K0289E
Part(s) of the register:	Registered Nurse – Sub Part 1 RNC: Children’s Nursing – April 2021
Relevant Location:	Oxford
Type of case:	Misconduct & Health
Panel members:	Mandy Elizabeth Rayani (Chair, registrant member) David Newsham (Lay member) Sharon Haggerty (Registrant member)
Legal Assessor:	Charlene Bernard
Hearings Coordinator:	Andrew Ormsby
Nursing and Midwifery Council:	Represented by Jamie Perriam, Case Presenter
Miss Gardener:	Not Present and unrepresented
Order being reviewed:	Suspension order (12 months)
Fitness to practise:	Impaired
Outcome:	Suspension order (12 months) to come into effect on 21 October 2025 in accordance with Article 30 (1)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Gardener was not in attendance and that the Notice of Hearing had been sent to Miss Gardener's registered email address by secure email on 15 July 2025.

Mr Perriam, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Gardener's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all the information available, the panel was satisfied that Miss Gardener has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Gardener

The panel next considered whether it should proceed in the absence of Miss Gardener. The panel had regard to Rule 21 and heard the submissions of Mr Perriam who invited the panel to continue in the absence of Miss Gardener. He submitted that the NMC had made every effort to secure her attendance and that there was a strong public interest in proceeding insofar as the case relates to public safety. He stated that this outweighed Miss Gardener's interests, and, in the circumstances, this was fair as her interests had to be weighed against the panel's primary duty, which was to protect the public and the public interest.

Mr Perriam submitted that there had been no application to adjourn from Miss Gardener and stated that there was a public interest in proceeding given the current order expires on 21 October 2025.

Further, Mr Perriam submitted that there had been limited engagement with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure Miss Gardener's attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Gardener. In reaching this decision, the panel has considered the submissions of Mr Perriam, the email correspondence from Miss Gardener and the advice of the legal assessor. It has had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Gardener;
- Miss Gardener has not effectively engaged with the NMC;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

The panel also considered that extensive efforts have been made by the NMC to facilitate Miss Gardener's attendance at this hearing.

The panel noted email correspondence [PRIVATE]

[PRIVATE] The panel considered the information within the registrant's correspondence and balanced this against the impact of further adjourning [PRIVATE].

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Gardener and its decision has had regard to any relevant case law and to the overall interests of justice and fairness to all parties.

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

At the outset of the hearing, Mr Perriam, on behalf of the NMC, made a request that this case be held in private on the basis that proper exploration of Miss Gardener's case involves [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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.

[PRIVATE].

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order for a further 12 months.

This order will come into effect at the end of 21 October 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 19 September 2024.

The current order is due to expire at the end of 21 October 2025.

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 nurse;

1) Breached an Interim Suspension Order imposed by the Investigating Committee on 13 September 2023, in that you;

a) Undertook one or more shifts at Oxford Children's Hospital on;

i) 14 September 2023;

ii) 15 September 2023;

iii) 16 September 2023.

[...]

3) Between 20 February 2024 and 9 August 2024, failed/refused to cooperate with your regulating body, the Nursing and Midwifery Council in that you;

a) Failed/refused to undertake medical/alcohol testing [PRIVATE].

And in light of the above your fitness to practise is impaired by reason of your misconduct.

[PRIVATE]

The original panel determined the following with regard to impairment by reason of Miss Gardener's misconduct:

'The panel found that patients were put at risk of serious harm as a result of Miss Gardener's misconduct. The panel determined that she did not recognise the potential for harm, and that potential harm was avoided because she was supernumerary and the bank shifts she booked were cancelled due to the Trust's policy on returning to work after sickness and that she was currently under an interim conditions of practice order which required her to be supervised.[PRIVATE]. Miss Gardener's misconduct breached the fundamental tenets of the nursing profession and brought its reputation into disrepute.

Regarding insight, the panel considered that Miss Gardener has not demonstrated an understanding of how her actions put patients at a risk of

harm or an understanding of why what she did was wrong. The panel also took into account that Miss Gardener has expressed no remorse for her actions.

The panel was satisfied that the misconduct in this case is capable of being addressed. However, it is not easily remediable and Miss Gardener has not demonstrated that she has taken any steps to address or remediate the concern, nor has she provided any reflections that demonstrate insight into the impact of her behaviour on others.

The panel determined that Miss Gardener has been, and would remain, a risk to patients, and that her attitude regarding the safety of others is dangerous. Although no other allegations have been raised to the NMC prior to these concerns, the panel found Miss Gardener to have a long history of noncompliance with measures [PRIVATE]

In light of the above, the panel determined Miss Gardener's misconduct is highly likely to be repeated. The panel 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; 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.

The panel determined that a finding of impairment on public interest grounds is required to maintain public confidence in the nursing profession and to uphold the proper professional standards for members of those professions.

Having regard to all of the above, the panel was satisfied that Miss Gardener's fitness to practise is currently impaired by reason of misconduct.

[PRIVATE] *There is no statutory definition of fitness to practise. However, the NMC defined fitness to practise as a registrant's suitability to remain on the register unrestricted.'*

[PRIVATE]

The original panel determined the following with regard to sanction:

'The panel next considered whether placing conditions of practice on Miss Gardener's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- [PRIVATE]
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel was of the view that, given the nature of the charges in this case, it would be difficult to enforce workable conditions. Additionally, the panel was mindful that Miss Gardener has not demonstrated that she can practise independently and has not complied with her interim conditions of practice order previously. [PRIVATE]

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

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- [PRIVATE].*

The panel was satisfied that in this case, the misconduct, limited to one instance of misconduct which was not on the higher end of the seriousness scale, was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate and unduly punitive in Miss Gardener's case to impose a striking-off order.

Balancing all of these factors the panel concluded that a suspension order would be the appropriate and proportionate sanction. The panel was satisfied that a suspension order would protect the public and meet the wider public interest in this matter.

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

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct, [PRIVATE].

[...]

Any future panel reviewing this case would be assisted by:

- [PRIVATE],
- [PRIVATE],
- [PRIVATE]
- *Evidence of ongoing training, including documentary evidence of completed training courses,*
- *Testimonials from colleagues and supervisors or a line manager,*
- *Demonstration of Miss Gardener's ability to work reliably in a health-related environment or other setting in either a voluntary or paid capacity, and*
- *Engagement with NMC proceedings such as attending review hearings.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Gardener's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all the documentation before it, including the NMC bundle, and correspondence from Miss Gardener regarding this hearing. It has taken account of the submissions made by Mr Perriam on behalf of the NMC. He submitted that given the absence of any material change of circumstances since the order of suspension was first imposed at the substantive hearing, Miss Gardener continued to pose a risk to the public.

Mr Perriam stated that Miss Gardener's fitness to practise remained impaired and that such a finding was required on the grounds of public protection, the public interest and was also in the registrant's own interests.[PRIVATE].

Mr Perriam stated that the NMC had received no further update from Miss Gardener [PRIVATE].

[PRIVATE].

Mr Perriam submitted that, in relation to Miss Gardener's misconduct, no updates regarding reflections or any evidence of training had been received.

Further, Mr Perriam stated that the original panel had found that Miss Gardener's misconduct was highly likely to be repeated.

Mr Perriam submitted that the persuasive burden was on Miss Gardener to demonstrate that she was no longer impaired. He stated that there was nothing before the panel to show any material change and so Miss Gardener remained impaired on both misconduct [PRIVATE]. He stated that such a finding was necessary for public protection, public interest grounds and in the registrant's interest.

Mr Perriam stated that a member of the public would expect a nurse in such circumstances to have their fitness to practise to be found impaired and if there were no finding of impairment public confidence in the profession would be undermined.

Mr Perriam submitted that a suspension order was necessary and appropriate. He stated that a 12-month suspension would be proportionate and allow Miss Gardener a further opportunity to engage with the NMC and, it was hoped, make progress towards addressing the issues that persist. Further, it would protect the public and the public interest.

Mr Perriam submitted that it was not proportionate nor in the public interest to take a different course of action.

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 Gardener's fitness to practise remains impaired in relation to her misconduct.

The panel noted that the original panel found that Miss Gardener had not demonstrated that she had taken any steps to address or remediate the concern, nor had she provided any reflections that demonstrated insight into the impact of her behaviour on others.

The panel considered that, given it had received no evidence of any remediation, CPD, or of insight in relation to Miss Gardener's misconduct her fitness to practise clearly remained impaired by reason of misconduct.

[PRIVATE]

Decision and reasons on sanction

Having found Miss Gardener'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 accepted the advice of the legal assessor.

In coming to its decision the panel had regard to its findings on impairment.

It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel considered that taking no further action would be neither appropriate nor proportionate taking into account the public protection concerns and the need to uphold the wider public interest in this case.

The panel considered that a caution would not be appropriate given the risk of repetition and risk to patients and would not protect the public.

Further, the panel considered that conditions of practice were not appropriate in this case [PRIVATE]. The panel noted that Miss Gardener had effectively not engaged with the NMC and, as such, imposing conditions would not be workable or appropriate.

In the circumstances, the panel determined that the extension of the order of suspension was necessary to protect the public and satisfy the public interest.

The panel considered that a period of suspension would afford Miss Gardener the opportunity to provide reflections on her misconduct and would allow her to undertake further relevant training.

[PRIVATE]

Accordingly, the panel determined that a suspension order for a further period of 12 months was the necessary and proportionate sanction to reflect the lack of insight and the need for Miss Gardener to demonstrate further remediation. [PRIVATE].

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:

- [PRIVATE];
- [PRIVATE];
- Reflection from Miss Gardener [PRIVATE]
- Evidence of ongoing training, including documentary evidence of completed training courses;

- Testimonials from colleagues and supervisors or a line manager;
- Demonstration of Miss Gardener's ability to work reliably in a health-related environment or other setting in either a voluntary or paid capacity; and
- Engagement with NMC proceedings such as attending review hearings.

The panel determined to impose an order of suspension for a period of 12 months.

This order will come into effect at the end of 21 October 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This will be confirmed to Miss Gardener in writing.

That concludes this determination.