

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

**Substantive Order Review Meeting**

**Thursday 22 February 2023**

Virtual Meeting

**Name of registrant:** Peter James Clinton

**NMC PIN:** 88C0902E

**Part(s) of the register:** Registered Nurse – Adult Nurse, level 1 (May 1991)  
Registered Midwife (August 1993)

**Relevant Location:** Wirral

**Type of case:** Misconduct

**Panel members:** Mary Hattie (Chair, Registrant member)  
Rachel Jokhi (Registrant member)  
Janine Green (Lay member)

**Legal Assessor:** Michael Levy

**Hearings Coordinator:** Monsur Ali

**Order being reviewed:** Conditions of practice order (12 months)

**Outcome:** Order to lapse upon expiry in accordance with Article 30(1), namely at the end of 28 March 2024

## **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 Mr Clinton's registered email address by secure email on 11 January 2024.

The panel took into account that the Notice of Meeting provided details of the review including the time, date and the fact that this meeting would be heard virtually.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Clinton 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 allow the current order to lapse. This will come into effect at the end of 28 March 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 28 February 2023.

The current order is due to expire at the end of 28 March 2024.

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:*

*1) On 19 December 2019:*

- a) *Failed to identify and or recognise when Baby A was suffering a fetal bradycardia;*
- b) *Failed to adequately escalate concerns regarding Patient A's condition;*
- c) *Failed to adequately document the care provided to Patient A.*

*AND in light of the above, your fitness to practise is impaired by reason of your misconduct.'*

The original panel determined the following with regard to impairment:

*'The panel carefully considered the breaches of the Code and the charges found proved. The panel had regard to the evidence in this case and it found that Patient A and Baby A were put at risk and were caused physical and emotional harm as a result of Mr Clinton's misconduct. Mr Clinton has now made full and frank admissions in relation to Charge 1 a) and 1c). However, the panel considered that his insight regarding Charge 1b) is still developing.*

*Regarding insight, the panel considered that it has taken some time for Mr Clinton to develop insight but acknowledges that he has made admissions in his recent reflections and he has demonstrated an understanding of how his actions put Patient A and Baby A at a risk of harm and how this impacted negatively on the reputation of the midwifery profession. He further acknowledges that had he recognised and escalated concerns about the CTG earlier, this may have impacted positively on the outcome for baby A. In his most recent reflective statement, Mr Clinton has demonstrated remorse and empathy for the parents of baby A and has apologised for his failures. He has demonstrated how he would handle the situation differently in the future.*

*The panel had regard to Mr Clinton's most recent undated reflective statement, which includes that:*

*'The effect of this incident on the family concerned is obviously catastrophic and I can't begin to imagine what they have been through in the past 3 years and also the effect that it will have on them for the rest of their lives.*

*There is also a wider effect to consider, the impact of an incident like this on extended family and friends who may well lose faith in the trust concerned.*

*There is also the damage that an incident such as this can have on the reputation of the midwifery profession, public trust in the profession to deliver high standards of care may be lost.*

*....I constantly reflect on this case and how things could have been different for this family and I hope they are able to move on with their lives.*

*....I have a deep sense of regret for the events of that day and the eventual outcome, its an outcome that potentially could have been avoided and I can only offer my sympathy to the family concerned.'*

*In assessing current risk, the panel considered Mr Clinton's reflections and insight and that whether he has developed any insight. It bore in mind that Mr Clinton has made full admission to the regulatory concerns outlined in Charge 1a) and 1c) and that Mr Clinton is now remorseful. Furthermore, the panel had regard to Mr Clinton's reflective statement in which he demonstrated an understanding of the importance record keeping and his acceptance of failure to diagnose fetal bradycardia and that, this error of judgement was a major factor in the poor outcome for Baby A. Mr Clinton also mentioned in his reflective statement that he is aware of the wider impact of his misconduct on the midwifery profession and on the public confidence in the profession.*

*Notwithstanding, the panel was of the view that Mr Clinton's insight is developing. The panel took into account that Mr Clinton had stated in his reflective statement that he accepted responsibility for his actions with regards to Charge 1a) and 1c. However, he has continued to deflect blame in relation to Charge 1b) and maintain his position that he made escalation in numerous occasions. Whilst the panel accepted the contextual circumstances of this case, it maintains the view that Mr Clinton had a fundamental duty to provide a safe level of care to his patients. The*

*panel determined that he should have attempted to auscultate the fetal heart urgently with a hand-held device as soon as it became apparent that he was not able to hear the fetal heart rate using the CTG transducer. In not doing so, he missed the opportunity of diagnosing fetal bradycardia earlier and of escalating to expedite delivery of Baby A.*

*The panel considered whether Mr Clinton has taken steps to strengthen his practice. Whilst Mr Clinton has stated in his reflective statement that he has completed online obstetric training and the panel had evidence of training undertaken following the sad events, this was not complete and in any event is now out of date. The panel did not have any evidence of recent training and, as such, the panel was of the view that Mr Clinton has not been able to demonstrate that he has strengthened his practise.*

*On this basis and given Mr Clinton's level of insight into Charge 1b), the panel decided that there is a risk of repetition and 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. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.*

*In this regard, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore also finds Mr Clinton's fitness to practise impaired on public interest grounds.*

*Having regard to all of the above, the panel was satisfied that Mr Clinton's fitness to practise is currently impaired.'*

The original panel determined the following with regard to sanction:

*'Having found Mr Clinton's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne*

*in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG and relevant case law. The decision on sanction is a matter for the panel independently exercising its own judgement.*

*The panel took into account the following aggravating features:*

- Mr Clinton's conduct put Patient A and Baby A at serious risk of actual harm*
- Initial lack of insight for a prolonged period of time*
- Insight in respect of Charge 1b) is developing but not yet fully developed.*
- Failure in basic midwifery skills by an experienced midwife.*

*The panel also took into account the following mitigating features:*

- Mr Clinton made admissions to charges 1a) and 1c).*
- Mr Clinton has demonstrated insight and taken responsibility for his actions in respect of the Charges 1a) and 1c).*
- A broad spectrum of positive testimonials from Mr Clinton's colleagues*
- A single error of judgment within a short period of time in an otherwise unblemished career.*
- Mr Clinton has shown remorse and insight in his most recent reflective statement.*

*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 Mr Clinton'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 Mr Clinton'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 placing conditions of practice on Mr Clinton's registration would be a sufficient and appropriate response. The panel had regard to the NMC guidance on taking account of the context:*

*'We understand the importance of making sure our processes and decisions support a culture of fairness, openness and learning. Given the complexity of health and social care settings, sometimes concerns that appear to be the result of poor individual practice are actually caused by system pressures or other factors. They're not always due to someone's attitude, knowledge, skills or ability to provide safe and effective care.*

*When things go wrong, it can be easy to assign blame rather than take the time to understand why something happened and what can be done to prevent it from happening again.*

*This means we need to look beyond the actions of an individual and understand the role of other people, the culture and environment they were working in when something went wrong. Only then can we identify what needs to happen to keep people safe in the future - even if we're not the ones who can take that action.'*

*The panel determined that Mr Clinton's error contributed to the tragic outcome for Baby A. The panel was of the view that Mr Clinton was working on an assumption that Patient A was progressing rapidly in labour. There was clear evidence that by trying to find the fetal heartbeat for an extended period of time in the Labour Ward, potentially valuable time was lost which may have affected the outcome for Baby A. However, from the evidence before the panel a number of opportunities were missed by other staff members to ensure that Patient A had a full obstetric assessment, that an appropriate plan of care was made and that her care was appropriately prioritised.*

*In particular the panel had regard to the following recommendations within the independent investigation report of HSIB:*

*'The Trust to ensure that mothers, with existing risk factors who telephone with signs of labour, are asked to attend the maternity department in a timely manner.'*

*'The Trust to ensure that when a mother with additional complexities attends the maternity unit, obstetric staff undertake a face to face, holistic assessment so that a plan of care can be agreed, in the context of the capacity of the wider maternity unit.'*

*The panel noted that the guidelines presented in evidence provided by the Hospital were published after the incident but before the HSIB report and that the guideline did not seem to have been updated with the recommendations from the HSIB report. The panel also noted that a clear direction is not given with regard to the appropriate place for assessment for high-risk women admitted to be assessed.*

*The panel took into account the oral evidence of Witness 1 in which she stated that the standard operating procedure at the time was not fully implemented. The panel noted that guidance as to where Patient A should have been assessed appeared to be unclear, as, Mr Clinton, in his written evidence stated that considering the complexities of Patient A, it was the Hospital's policy that she should have been admitted straight on to Labour Ward but Witness 1 stated that, it was not the case at the time.*

*The panel noted the oral evidence of Witness 2 where they stated that Patient A should have been assessed by the obstetric team on the Triage. The panel heard from Witness 1 that the unit was not busy, it was 'fully established' and that, not all the theatre rooms were full. Therefore, the panel determined that there was no reason why Patient A could not have gone directly to the Labour Ward.*



*Therefore, the panel concluded that an order was necessary on grounds of public protection. The panel also noted the public interest in retaining effective and compassionate midwives to practise in a safe and controlled environment. Further, it was of the view that a fully informed member of the public would be reassured if Mr Clinton were to return to nursing practice with appropriate safeguards and supervision.*

*The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular the below factors which were applicable in this case:*

- '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;*
- 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case, in relation to the specific elements which related to the concerns of Mr Clinton's midwifery practice in relation to the charges.*

*The panel carefully considered whether the imposition of a suspension or strike off order was appropriate in the circumstances. The panel was of the view that it was disproportionate to remove Mr Clinton from midwifery practice. The panel had to seek further particulars of Charge 1b) as it was so widely put. The relevant particulars were that Mr Clinton had failed to escalate the issues over the CTG. He had admitted failings with respect to the CTG in Charge 1a), therefore the panel was of the view that he had*

*admitted the full scale of his errors notwithstanding his denial of Charge 1b).*

*Therefore, the panel determined that although the public interest is high in this case given the tragic outcome for Baby A, it was of the view that any reasonable member of the public appraised of all the evidence including the contextual evidence would be satisfied that the public interest has been served and acknowledged that there is a strong public interest in retaining an experienced midwife on the register. The panel was of the view that a conditions of practice order would adequately mark the seriousness on the grounds of public protection and public interest.*

*Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.*

*The panel determined that the following conditions 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 limit your practice to one employer that is not an agency.*
- 2. You must ensure that you are supervised any time you are working. This supervision must consist of:*
  - i) Working at all times on the same shift as, but not always directly observed by, a registered midwife of Band 6 or above.*

3. *You must ensure that you are working under the direct supervision of your manager/supervisor/mentor any time you are working with CTG monitoring until you have been assessed as competent.*
4. *You must work with your line manager/supervisor/mentor to create a personal development plan (PDP). Your PDP must address:*
  - *CTG monitoring, interpretation and escalation*
  - *Ensure accurate documentation and record keeping*
  - *Risk associated with uterine rupture*

*You must:*

- i) *Send your case officer a copy of your PDP before your case is reviewed.*
  - ii) *Meet with your line manager monthly to discuss your progress towards achieving the aims set out in your PDP.*
  - iii) *Send your case officer a report from your line manager before your case is reviewed. This report must show your progress towards achieving the aims set out in your PDP.*
5. *You must engage with a mentor/ supervisor/ line manager/ registered midwife band 6 or above on a frequent basis to ensure that you are making progress towards aims set in your personal development plan (PDP), which include:*
    - *Meeting with your mentor/ supervisor/ line manager/ registered midwife band 6 at least every four weeks to discuss your progress towards achieving the aims set out in your PDP*
  6. *You must keep a reflective practice profile.*

*The profile will:*

    - *Detail four cases where you undertook or assisted with CTG analysis, and any escalation related to identified risk.*
    - *Set out the nature of the care given.*

- *Be signed by your mentor/supervisor/registered midwife band 6 .or above each time.*
- *Contain feedback on how you gave the care.*

*You must send your case officer a copy of the profile.*

- 7. You must keep the NMC informed about anywhere you are working by:*
  - a) Telling your case officer within seven days of accepting or leaving any employment.*
  - b) Giving your case officer your employer's contact details.*
- 8. You must keep the NMC informed about anywhere you are studying by:*
  - a) Telling your case officer within seven days of accepting any course of study.*
  - b) Giving your case officer the name and contact details of the organisation offering that course of study.*
- 9. You must immediately give a copy of these conditions to:*
  - a) Any organisation or person you work for.*
  - b) Any agency you apply to or are registered with for work.*
  - c) Any employers you apply to for work (at the time of application).*
  - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
  - e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity*

10. *You must tell your case officer, within seven days of your becoming aware of:*
  - a) *Any clinical incident you are involved in.*
  - b) *Any investigation started against you.*
  - c) *Any disciplinary proceedings taken against you.*
  
11. *You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*
  - a) *Any current or future employer.*
  - b) *Any educational establishment.*
  - c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

*The period of this order is for the maximum term of 12 months.'*

### **Decision and reasons on current impairment**

The panel has considered carefully whether Mr Clinton'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 had regard to all of the documentation before it, including the NMC bundle, which included correspondence between Mr Clinton and the NMC.

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 Mr Clinton's fitness to practise remains impaired.

At this meeting, the panel considered two emails from Mr Clinton to the NMC dated 4 and 5 January 2024. The emails state:

*'Hi*

*Are you aware that I've been retired for 2 years?*

*Peter'*

*'My last email didn't make much sense. It should say-*

*If I apply for removal does that only mean removal as a Midwife or would my nurse registration also be removed?'*

In its consideration of whether Mr Clinton has taken steps to strengthen his practice, there was no evidence before the panel to demonstrate that Mr Clinton has developed insight into his misconduct. He has maintained his position that he no longer wants to practise as a nurse or midwife. The panel also noted that there is no evidence before it which shows Mr Clinton has taken steps to strengthen his practice. It noted that he has not been working as a nurse or midwife since the imposition of the order.

The panel had seen emails from Mr Clinton which clearly states that he has no intention to return to practise as a nurse or midwife. Further, Mr Clinton has not had meaningful engagement with the process in over a year, nor has he provided any evidence that he has developed insight or strengthened his practice. The panel noted that there is no evidence to demonstrate whether the conditions of practice order has been complied with by Mr Clinton.

In the light of the above reasons, the panel 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 Mr Clinton's fitness to practise remains impaired.

### **Decision and reasons on sanction**

Having found Mr Clinton'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 noted that Mr Clinton has expressed that he does not wish to remain on the NMC register, and he has not provided any evidence that he has taken steps to strengthen his practise. The panel determined that the current conditions of practice order marks the public interest and should be left to run to the end of the order.

The panel was of the view that a caution order would not be enough to protect the public based on the seriousness of the facts found proved and the risk of repetition identified by the panel. It determined that a conditions of practice order would also not be appropriate even if it could formulate workable conditions, as Mr Clinton has stated that he does not wish to return to nursing or midwifery, and is unlikely to comply with any conditions of practice.

The panel considered a suspension order but determined that this would also serve no purpose as Mr Clinton has made it clear that he does not wish to return to midwifery or remain on the NMC register. The panel noted that Mr Clinton has had 12 months, since the imposition of the order, to consider his position on whether to continue as a midwife and he maintains his position that he wants to come off the NMC register as confirmed in his email dated 14 January and 2 February 2024.

The panel considered the NMC guidance on allowing an order to lapse upon expiry with a finding of current impairment:

- the nurse, midwife or nursing associate's registration is only active because of the substantive order being in place,
- the nurse, midwife or nursing associate doesn't want to continue practising, and
- the public are protected because the panel have made a clear finding that the nurse, midwife, or nursing associate's fitness to practise is currently impaired so that this can be drawn to the attention of any future decision-maker if the nurse, midwife, or nursing associate attempts to re-join the NMC register.

The panel determined that allowing the order to lapse at this stage would be proportionate as Mr Clinton has not renewed his registration and it would automatically lapse at the end of the current order, taking him off the NMC register. The finding of current impairment would remain on his record, leaving the public protected. Should Mr Clinton wish to return to the NMC register, he would have to satisfy the registrar that he was no longer impaired and is fit to return to practice.

The panel was therefore satisfied that the public would be suitably protected once the order lapses upon expiry. It determined that a striking off order would be disproportionate at this stage given the nature of the facts found proved.

In accordance with Article 30(1), the substantive suspension order will lapse upon expiry at the end of 28 March 2024.

This decision will be confirmed to Mr Clinton in writing.

That concludes this determination.