

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

**Substantive Hearing  
Tuesday, 12 December 2023**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of Registrant:</b>	<b>Lucy Letby</b>
<b>NMC PIN</b>	1110094E
<b>Part(s) of the register:</b>	Registered Nurse – Children Nursing (Level 1) – September 2011
<b>Relevant Location:</b>	Cheshire West and Chester
<b>Type of case:</b>	Conviction
<b>Panel members:</b>	Bernard Herdan (Chair, Lay member) Lisa Punter (Registrant member) Jane McLeod (Lay member)
<b>Legal Assessor:</b>	Nigel Ingram
<b>Hearings Coordinator:</b>	Catherine Acevedo Ruth Bass
<b>Nursing and Midwifery Council:</b>	Represented by Christopher Scott, Case Presenter
<b>Miss Letby:</b>	Not present and unrepresented
<b>Facts proved:</b>	All
<b>Facts not proved:</b>	None
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking-off order

**Interim order:**

Interim suspension order (18 months)

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Letby was not in attendance and that the Notice of Hearing letter had been sent to Miss Letby's last known address by recorded delivery and by first class post on 26 October 2023.

Mr Scott, 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 allegation, the time, dates and venue of the hearing and, amongst other things, information about Miss Letby'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 Letby has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Miss Letby**

The panel next considered whether it should proceed in the absence of Miss Letby. It had regard to Rule 21 and heard the submissions of Mr Scott who invited the panel to continue in the absence of Miss Letby.

Ms Scott submitted that Miss Letby has made clear on her response form dated 9 November 2023 that she does not wish to take part in or be present at the hearing. She does not seek an adjournment and she wants the hearing to go ahead without her. There is no reason to think that an adjournment would serve any purpose. She has provided the

panel with written submissions setting out her position. The nature of the evidence against her, as will be set out, is conclusive. There is therefore no real disadvantage to Miss Letby by the panel proceeding in her absence.

Mr Scott submitted that Miss Letby has stated in her response that she is appealing her conviction. However, that it is not a matter which is relevant to the panel's consideration of the case today.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Miss Letby. In reaching this decision, the panel has considered the submissions of Mr Scott, the representations from Miss Letby, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Letby;
- Miss Letby has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- There is no reason to suppose that adjourning would secure Miss Letby's attendance at some future date;
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Letby. The panel will draw no adverse inference from Miss Letby's absence in its findings.

### **Details of charge**

That you, a registered nurse, from 8 August 2023 at Manchester Crown Court, were convicted of the following:

1. Murder.
2. Murder.
3. Murder.
4. Murder.
5. Murder.
6. Murder.
7. Murder.
8. Attempted murder.
9. Attempted murder.
10. Attempted murder.
11. Attempted murder.
12. Attempted murder.
13. Attempted murder.
14. Attempted murder.

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

### **Background**

Miss Letby is a registered nurse. She has been convicted of 7 murders and 7 counts (against 6 victims) of attempted murder involving neonatal babies in her care at the

Countess of Chester Hospital. The offences took place between June 2015 and June 2016. Following trial, in which she pleaded not guilty to all offences, Miss Letby was convicted from 8 August 2023 at Manchester Crown Court. On 21 August 2023 she was sentenced to imprisonment for life, on each of the 7 offences of murder and the 7 offences of attempted murder. The court directed that early release provisions do not apply due to the seriousness of the offences. The court directed that a 'whole life' order be made on every offence and Miss Letby will remain in prison for the rest of her life.

### **Decision and reasons on facts**

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the submissions made by Mr Scott on behalf of the NMC and the written responses from Miss Letby. In these responses Miss Letby stated she accepted the fact of her convictions.

The panel heard and accepted the advice of the legal assessor.

The charges concern Miss Letby's conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3).

### **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Miss Letby's fitness to practise is currently impaired by reason of Miss Letby's convictions. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

### **Submissions on impairment**

Mr Scott addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. He made reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). In paragraph 76 of that case, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...'*

Mr Scott submitted that limbs a, b and c in the test set out in the case of *Grant* can be answered in the affirmative in this case and so require a finding of impaired fitness to practise. He referred the panel to the judge's sentencing remarks to illustrate why the NMC says that each of those parts of the test set out in the case of *Grant* has been met. He submitted that the remarks are powerful, and terrible.

Mr Scott submitted that Miss Letby put patients at unwarranted risk of harm. She murdered seven babies and attempted to murder six more, one of them twice. He invited the panel to note that the murders and attempted murders took place over a period of 13 months; this is not merely illustrative of a risk of repetition, but clear evidence that harm was repeated, and deliberate.

Mr Scott submitted that the impact that Miss Letby's offending has had on the reputation of the profession is profound and brought the profession into disrepute.

Mr Scott referred the panel to 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) which is divided into four areas:

- Prioritise people;
- Practise effectively;
- Preserve safety;
- Promote professionalism and trust.

Mr Scott submitted that together these may be said to represent the fundamental tenets of the profession. The murder and attempted murder of babies in the care of a nurse is conduct which self-evidently breaches all of these fundamental tenets.

In terms of public protection, Mr Scott submitted that Miss Letby has displayed no insight. She has said on her response to the notice of hearing form that she does not "resist" the application to strike her off the nursing register. Mr Scott submitted that this is realism; it is not indicative of any insight and Miss Letby fails to mention any of the victims, or the many people affected by her crimes.

Mr Scott also drew to the panel's attention the fact that Miss Letby refused to attend her sentencing hearing. She thereby refused to listen to the Victims' Personal Statements of the families she had harmed. She also refused to face the judge who sentenced her.



Mr Scott submitted that Miss Letby's convictions are so serious that they are not matters which can be remediated. Notwithstanding that Miss Letby will be unable to practise as a nurse because she will spend the remainder of her life in prison, the harm she has caused is so egregious, and the lack of insight and remorse that she has shown is so striking, that a finding of impairment is necessary for the protection of the public.

In terms of the public interest, Mr Scott submitted that there are types of concern that are so serious that a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession. He submitted this is clearly such a case and a failure to find Miss Letby impaired would provoke a crisis of public confidence in the profession and the regulator.

For the reasons set out, he submitted that a finding of impairment is also required in the public interest.

The panel noted in Miss Letby's response that she disputed that she was currently impaired.

The panel accepted the advice of the legal assessor.

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

The panel next went on to decide if as a result of the conviction, Miss Letby's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC's Fitness to Practise Library, updated on 27 March 2023, which states:

*'The question that will help decide whether a professional's fitness to practise is impaired is:*

*“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”*

*If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.’*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.’*

And in paragraph 76, where Mrs Justice Cox referred to Dame Janet Smith's “test” set out in the fifth Shipman report identifying the test for impairment, namely whether the registrant:

- a) *‘has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

- c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
  
- d) *...*

In considering the facts of the case against the test for impairment set out by Dame Janet Smith, the panel had the advantage of Mr Justice Goss KC's sentencing remarks which were addressed to Miss Letby.

In particular the panel found the following passages from the Learned Judge's sentencing remarks were particularly impactful and relevant to its deliberations:

*"You acted in a way that was completely contrary to the normal human instincts of nurturing and caring for babies and in gross breach of the trust that all citizens place in those who work in the medical and caring professions. The babies you harmed were born prematurely and some were at risk of not surviving, but in each case you deliberately harmed them intending to kill them".*

*"There was pre-meditation, calculation and cunning in your actions. You specifically targeted twins and, latterly, triplets. Some babies were healthy, others had medical issues of which you were aware. The great majority of your victims suffered acute pain as a result of what you did to them. They all fought for survival; some, sadly, struggled in vain and died. You used a number of different ways to try to kill them, thereby misleading clinicians into believing the collapses had, or might have had a natural cause or were a consequence of a developing medical condition. You took opportunities to harm babies when staff were on breaks or away from babies".*

*"The impact of your crimes has been immense, as disclosed by the deeply moving personal statements that have been read to the court this morning.*

*The lives of new-born or relatively new-born babies were ended almost as soon as they began and lifelong harm has been caused, all in horrific circumstances. Loving parents have been robbed of their cherished children and others have to live with the physical and mental consequences of your actions. Siblings have been deprived of brothers and sisters. You have caused deep psychological trauma, brought enduring grief and feelings of guilt, caused strains in relationships and disruption to the lives of all the families of all your victims”.*

*“By their nature and number, such murders and attempted murders by a neonatal nurse entrusted to care for them are offences of very exceptional seriousness. The damaging impact of your actions on others working at that hospital, including those who numbered you as a friend, betraying their trust and creating upset and suspicion, as well as eroding confidence in clinicians and nurses generally, aggravates their seriousness. This was a cruel, calculated and cynical campaign of child murder involving the smallest and most vulnerable of children, knowing that your actions were causing significant physical suffering and would cause untold mental suffering. You created situations so that collapses or causes of collapses would not be obvious or associated with you; you removed and retained confidential records of events relating to your crimes and checked up on bereaved parents. There was a deep malevolence bordering on sadism in your actions. During the course of this trial you have coldly denied any responsibility for your wrongdoing and sought to attribute some fault to others. You have shown no remorse. There are no mitigating factors”.*

The panel found limbs a, b and c as set out in the case of *Grant* engaged.

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/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.

Regarding insight, the panel noted that it had no evidence before it of any reflections by Miss Letby nor of her remorse or recognition of the impact of her actions. However, the panel took account of the fact that Miss Letby is currently seeking to appeal her convictions for murder and attempted murder.

With respect to limb a, the panel echoed the view of the Learned Trial Judge that this was a cruel, calculated and cynical campaign of child murder over a 13-month period. It was repeated and deliberate. The panel was satisfied that Miss Letby had caused considerable harm to patients and their families, and her colleagues. The panel was of the view that Miss Letby's conduct was so egregious that it could not be remediated and was therefore highly likely to be repeated. It took into account that Miss Letby will never practise as a nurse again because she will spend the remainder of her life in prison. Nevertheless, the panel determined that a finding of impairment is necessary for the protection of the public.

With respect to limbs b and c, the panel considered that a well-informed member of the public when reading of Miss Letby's deplorable conduct would consider it so serious that a failure by the panel to find Miss Letby impaired would provoke a crisis of public confidence in the profession and the NMC as regulator. The panel are in no doubt that murder and attempted murders of babies in the care of a registered nurse is conduct which self-evidently breaches all the fundamental tenets of the nursing profession. The panel therefore determined that, in this case, a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel concluded that Miss Letby's fitness to practise is currently impaired.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Miss Letby off the register. The effect of this order is that the NMC register will show that Miss Letby has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

### **Submissions on sanction**

Mr Scott referred the panel to the NMC guidance which sets out matters which are deemed by the NMC to be serious, namely:

- Serious concerns which are more difficult to put right (which include deliberately causing harm to patients);
- Serious concerns which could result in harm to patients if not put right (which include breaches of the fundamental tenets of the profession);
- Serious concerns based on public confidence or professional standards.

Mr Scott submitted that Miss Letby's convictions for murder and attempted murder are covered by all three such factors. He then outlined what the NMC consider to be the aggravating features of this case. He submitted that there are no mitigating features.

Mr Scott submitted that if there was ever a case which was fundamentally incompatible with ongoing registration, it is this one and that the only possible outcome is that a striking-off order is necessary, proportionate and just.

The panel heard and accepted the advice of the legal assessor.

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

Having found Miss Letby'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. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Miss Letby has been convicted of multiple counts of murder and attempted murder. She deliberately inflicted extreme harm on the most vulnerable victims which resulted in patients and their families suffering harm.
- Miss Letby abused her position of trust as a nursing professional.
- Miss Letby demonstrated a pattern of offending over an extended period of time.
- Miss Letby has shown no remorse for her actions evidencing attitudinal issues.

The panel considered there were no mitigating features in this case.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Letby's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Miss Letby's misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on Miss Letby's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The panel concluded that the placing of conditions on Miss Letby's registration would not adequately address the seriousness of this case and would not protect the public.

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:

- *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.*

The panel considered that this was not a single instance; Miss Letby repeated her actions over an extended period of time. It had no evidence of remorse before it. Her actions were indicative of deep-seated attitudinal problems and as such there remains a risk of repetition.

The conduct, as highlighted by the facts found proved, was a complete departure from the standards expected of a registered nurse. The panel considered that the extremely serious breach of the fundamental tenets of the profession evidenced by Miss Letby's actions is fundamentally incompatible with her remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.



Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Miss Letby's actions were a complete departure from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Letby's actions were so serious that to allow her to continue practising would pose unacceptable risks to the public and would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession.

Having regard to the effect of Miss Letby's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of striking-off order would be sufficient in this case.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the only appropriate and proportionate sanction is that of a striking-off order.

This decision will be confirmed to Miss Letby in writing.

## **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Letby's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

## **Submissions on interim order**

The panel took account of the submissions made by Mr Scott. He invited the panel to impose an interim suspension order to cover this period on the grounds that it is necessary to protect the public and is otherwise in the public interest. The period of such an interim order should be for 18 months, in case any appeal against the substantive order is made.

## **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the appeal period.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after Miss Letby is sent the decision of this hearing in writing.

That concludes this determination.