

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

**Substantive Order Review Hearing  
Monday 24 January 2022**

Virtual Hearing

<b>Name of registrant:</b>	<b>Olufunsho Joseph Ayodele</b>
<b>NMC PIN:</b>	04I0478E
<b>Part(s) of the register:</b>	Registered Nurse- Mental Health Nursing – September 2004
<b>Area of registered address:</b>	Surrey
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Debbie Hill (Chair, lay member) Ross Cheape (Registrant member) Fiona Abbott (Lay member)
<b>Legal Assessor:</b>	Simon Walsh
<b>Hearings Coordinator:</b>	Holly Girven
<b>Nursing and Midwifery Council:</b>	Represented by Tracey Brown, Case Presenter
<b>Reverend Ayodele:</b>	Not present and unrepresented
<b>Order being reviewed:</b>	Conditions of practice order (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	<b>Striking off order to come into effect at the end of 5 March 2022 in accordance with Article 30 (1)</b>

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

The panel was informed at the start of this hearing that Reverend Ayodele was not in attendance and that the Notice of Hearing had been sent to Reverend Ayodele's registered email address on 11 November 2021.

Further, the panel noted that the Notice of Hearing was also sent to Reverend Ayodele's former representative at the Royal College of Nursing (RCN) on 11 November 2021.

Ms Brown, 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, dates and link to the virtual hearing and, amongst other things, information about Reverend Ayodele's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Reverend Ayodele 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 Reverend Ayodele**

The panel next considered whether it should proceed in the absence of Reverend Ayodele. The panel had regard to Rule 21 and heard the submissions of Ms Brown who invited the panel to continue in the absence of Reverend Ayodele. She submitted that Reverend Ayodele had voluntarily absented himself.

Ms Brown referred the panel to the documentation from Reverend Ayodele which included an email dated 1 December 2021 that Reverend Ayodele initially sent to the RCN and subsequently forwarded to the NMC. In that email he stated:

*'Now, I have a small window to write a reply to your last letter. If you want to represent me at the next hearing coming up on 22nd Jan. 2022, [sic] then you need to be bold enough to pass on my message. If you anyway doubt that you'll be able to deliver the message, then don't.*

*My messages are as follows:*

*1. NMC was fraudulent by not charging me for what the whistleblower alleged in his letter, instead brought charges on what I was saying [PRIVATE].*

*2. [PRIVATE]*

*3. NMC said the University prevented us from using the student's allegation letter as evidence without any documentation evidence to confirm that and the panel chairman accepted it, which I think is legally fraudulent.*

*4. I have told you I quit Nursing because I experienced racism in the way my case was handled. If I were a white man, would NMC have brought this case that has no basis against me, where the only legitimate basis was the whistle blower's allegation letter?*

*5. The chairman of the hearing committee said "we may rehear the case when the whistleblower graduates when NMC would have the power to compel her to testify"? Where is that process now?*

*6. When I reminded the last panel of the hearing committee's chairman's statement, I was told they were only there to review how far I have complied with NMC's sanctions. Why was the verdict of the case not deferred till the student graduates? Anyway, she graduated in 2019 if NMC needs a reminder.*

*7. As far as I'm concerned all that the people on NMC's panel do, whether white or black is to collude to bring down any black person rising in that profession. This is exactly what happened during the slave trade when some blacks were co-opted as slave masters both in Britain and Africa to secure Britain's commodity - the slaves. I will not allow history to repeat itself in my case. If you are sure what you did was professional then I challenge you to rehear the case now that the student has graduated. If this were to happen today, then I can be proud to declare myself a nurse again.*

*8 The program I'm studying at the moment, enhances the nursing profession in diverse ways but you have to wait till you hear it.*

*Thanks, I'll wait to see if you accept the challenge.' [sic]*

In an email to the NMC dated 23 January 2022 Reverend Ayodele stated:

*'I'm sure you got a copy of my email to Ms.Adeyemi (RCN). The points listed are my reasons not to come before any NMC committee because you think you know everything and any nurse that comes before you is obviously lying. This is supposed to be a professional body, not a lodge. Presently, NMC is being run as another sugarcane plantation and I don't want to be a part. Please see my application for voluntary removal and supporting documents attached.'*

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Reverend Ayodele. In reaching this decision, the panel has considered the submissions of Ms Brown, the representations from Reverend Ayodele, and the advice of the legal assessor. It has had particular regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Reverend Ayodele;
- Reverend Ayodele has confirmed that he is aware of the hearing and does not wish to attend;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Reverend Ayodele.

### **Decision and reasons on review of the substantive order**

The panel decided to replace the current conditions of practice order with a striking off order.

This order will come into effect at the end of 5 March 2022 in accordance with Article 30(1)(b) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the fourth review of a substantive conditions of practice order originally imposed for a period of 18 months by a panel of the Conduct and Competence Committee on 8 December 2017. This was reviewed on 23 July 2019 and the conditions of practice order was extended for six months. On 30 January 2020, a panel of the Fitness to Practise Committee imposed a conditions of practice order for 12 months. On 26 January 2021, the conditions of practice order was varied and extended for a further 12 months.

The current order is due to expire at the end of 5 March 2022.

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, while employed as Deputy Ward Manager of Rusper Ward, Farmfield Hospital ("the Hospital"),*

*1. ...*

*2. On 2 May 2016:*

*a. Administered a depot injection (Olanzapine Pamoate) into Patient B's thigh, contrary to the manufacturer's instructions for the injection to be administered in the gluteal area;*

*b. Incorrectly recorded in Patient B's patient record that you had administered the depot injection in the intradermal site instead of intramuscularly;*

*c. ...*

*3. On or around 27 April 2016 inappropriately allocated a student nurse to undertake 2:1 observations of Patient C;*

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

The third reviewing panel determined the following with regard to impairment:

*'In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.*

*The panel considered whether your fitness to practise remains impaired.*

*The panel noted that the last reviewing panel found that you had developing but limited insight. At this hearing, the panel did not feel that your reflective piece showed complete insight into how your conduct impacted patients, colleagues and the nursing profession, but rather gave a summary of your grievances with the NMC process. The panel therefore considered that further insight is needed into how your actions put the patient at a risk of harm, why what you did was wrong, and how this impacted negatively on the reputation of the nursing profession.*

*The panel considered that the failings in this case are remediable, although they have not yet been remedied. The panel further noted that previous panels had identified concerns about your limited insight, and about an absence of evidence of any steps taken by you to acknowledge and remedy the failings identified. In today's panel's consideration of whether you have remedied your practice, the panel took into account the additional relevant training you have undertaken since the last NMC review, which included Injection Technique training. This was self-funded despite the fact you have not been able to secure employment and the panel recognised the commitment to the profession that you have shown in undertaking this training.*

*In addition, the panel acknowledged that complete compliance of the current conditions of practice order has been inhibited due to you being unable to secure employment as a registered nurse.*

*The last reviewing panel determined that you were liable to repeat matters of the kind found proved. Today's panel has had no substantial information before it to demonstrate that your fitness to practise is no longer impaired. In light of this, the panel determined that you are still liable to repeat matters of the kind found proved. The panel therefore 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 your fitness to practise remains impaired.'*

The third reviewing panel determined the following with regard to sanction:

*'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

*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 imposing a varied conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.*

*The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you have been unable to comply with conditions of practice due to your current employment status but are engaging with the NMC and are willing to comply with any conditions imposed.*

*The panel acknowledged your completed Injection Technique training, but were concerned that you have not administered injections for four years. As such, the panel decided to vary condition 7, removing its education and training element, but retaining the requirement for you to be observed giving Intra-muscular injections until deemed competent by your clinical supervisor. Further, the panel considered that the requirement in condition 7 for you to complete a mentorship course is not necessary for the protection of the public. It was concerned to make the conditions of practice as workable as possible and as such, removed this requirement.*

*While today's panel has seen sight of your reflection into the concerns, it determined that your insight into the charges found proved is limited. The panel noted that in your verbal submissions today, and the reflective statement provided to the panel, you did not adequately reflect on the impact of your actions on patients, colleagues and the nursing profession. The panel has noted that the first reviewing panel was satisfied that you had given clear answers about what you would do differently, but that up to today's date, you*



*have not shown adequate reflection and insight into the charges found proved.*

*The panel was of the view that a varied conditions of practice order is sufficient to protect patients and the wider public interest, noting that the original substantive panel determined that the charges found proved were remediable. In this case, there are conditions could be formulated which would protect patients during the period they are in force. The panel has decided to alter the numbering of the conditions to represent standard and current NMC ordering procedure for conditions of practice orders.*

*The panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of your case because you have shown a degree of progress and have attempted to comply with the current conditions of practice order, demonstrated by your completion of the Injection Technique training workshop, which has been self-funded while you have not been in employment.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 5 March 2021. It decided to impose the following conditions which it considered are appropriate and proportionate in this case:*

*For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.*

- 1. You must confine your practice to mental health nursing for the duration of time that this order remains imposed on your registration. You must restrict your practice to working in a mental health hospital,*

*mental health unit, or mental health setting. You must not work as an agency nurse.*

- 2. You must at all times place yourself and remain under the indirect supervision of a workplace line manager, mentor or supervisor nominated by your employer.*
- 3. You must be observed giving Intra-muscular injections by a manager, mentor or supervisor (or their nominated deputy) and assessed as competent.*
- 4. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan (PDP) designed to address the concerns about the following areas of your practice: administration of intra-muscular injections, managing risk and the importance of policies in the protection of patients, colleagues and the public.*
- 5. You must send a report from your manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance in relation to the areas identified in your PDP to the NMC at least 14 days before any NMC review hearing or meeting.*
- 6. You must produce a reflective piece and send it to the NMC before the next NMC review hearing.*
- 7. You must notify the NMC within 7 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
- 8. You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name and contact details of the individual or organisation offering the post, employment or course of study.*

9. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
10. *You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (9) above, to them:*
- a. any organisation or person employing, contracting with, or using you to undertake nursing work;*
  - b. any prospective employer (at the time of application);*
  - c. any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).'*

*The period of this order is for 12 months to allow you to secure employment and meet the conditions.'*

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

The panel has considered carefully whether Reverend Ayodele'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 of the documentation before it, including the NMC bundle, and the documents provided by Reverend Ayodele. It has taken account of the submissions made by Ms Brown on behalf of the NMC.

Ms Brown outlined the background to the case. She stated that the last reviewing panel found that Reverend Ayodele's insight was still developing, and that he had not

remediated the concerns. She stated that it does not appear that Reverend Ayodele has been working as a registered nurse since the last review and as such he has not provided a report from his employer. She further stated that Reverend Ayodele has not provided a reflective piece as suggested by the previous panel.

Ms Brown referred the panel to the email to the RCN dated 1 December 2021, which was subsequently forwarded to the NMC, in which Reverend Ayodele states:

*'The program I'm studying at the moment, enhances the nursing profession in diverse ways but you have to wait till you hear it.'*

She stated it is not clear what course this refers to and Reverend Ayodele has not provided further details.

Ms Brown further referred the panel to an email from Reverend Ayodele dated 23 January 2022 to which he attached an application for Voluntary Removal. She submitted that he made comments that were somewhat concerning and related to the original charges as opposed to impairment.

Ms Brown stated that if the panel find Reverend Ayodele's fitness to practise impaired then all options are open to the panel, including a striking-off order. She submitted that the conditions of practice have protected the public and upheld the public interest thus far. She stated that Reverend Ayodele has not provided any further evidence of training or strengthening his practice. She submitted that Reverend Ayodele has sought to shift responsibility onto the NMC which demonstrates a lack of insight. She submitted that his fitness to practice remains impaired, and he has continually failed to show remorse or take responsibility for his actions.

The panel also had regard to Reverend Ayodele's written representations, including an application for Voluntary Removal.

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 Reverend Ayodele's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Reverend Ayodele had insufficient, but developing insight. At this hearing, the panel considered that Reverend Ayodele has not shown any further insight, and has instead demonstrated a lack of insight. In particular, the panel were concerned that in Reverend Ayodele's application for Voluntary Removal he denied the facts already found proved and denied that his fitness to practise is impaired. The panel noted that Reverend Ayodele has indicated he does not wish to engage with the NMC, in the email dated 23 January 2022 he states:

*'This is supposed to be a professional body, not a lodge.*

*Presently, NMC is being run as another sugarcane plantation and I don't want to be a part.'*

In its consideration of whether Reverend Ayodele has taken steps to strengthen his practice, the panel took into account that according to his application for Voluntary Removal, Reverend Ayodele has not worked as a registered nurse since 2016. The panel noted that Reverend Ayodele has stated he has not been able to gain employment due to the conditions of practice, but considered that he has only provided evidence of two roles he has applied to, neither of which seem to be as a registered nurse.

Today's panel has received no new information to suggest that Reverend Ayodele does not present a risk. The tone and nature of the communications from him to his legal representatives (copied to the NMC for use in this hearing), and to the NMC itself, indicate that his insight has diminished and led the panel to conclude that the risk to the public has increased since the last review. In light of this, this panel determined that Reverend Ayodele is liable to repeat matters of the kind found proved. The panel therefore 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 Reverend Ayodele's fitness to practise remains impaired.

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

Having found Reverend Ayodele'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 Articles 30 and 29(5) 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 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 Reverend Ayodele'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 Reverend Ayodele'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, including his lack of insight. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Reverend Ayodele's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel has received information that Reverend Ayodele does not intend to return to practise as a nurse, and he has provided an application for Voluntary Removal.

In view of Reverend Ayodele's clear intention not to return to nursing, the panel considered that any conditions of practice order would not be workable and would serve no useful purpose. The panel considered that Reverend Ayodele has been subject to conditions of practice since December 2017 and he has demonstrated a persistent lack of insight and more recently has stated he does not wish to engage with the NMC. The panel considered that a conditions of practice order would no longer sufficiently protect the public.

The panel next considered imposing a suspension order. The panel noted that Reverend Ayodele does not intend to return to nursing and has not provided evidence of remorse for his misconduct or of any substantial steps taken to strengthen his practice. Further, Reverend Ayodele has not demonstrated sufficient insight throughout these proceedings. Reverend Ayodele has now made it clear that he does not intend to engage with NMC proceedings in the future. In these circumstances the panel determined that a period of suspension would not serve any useful purpose.

Reverend Ayodele's response to the NMC's regulatory process raised fundamental questions about his professionalism. In the view of the panel, the tone of Reverend Ayodele's recent responses may suggest deep-seated attitudinal problems and difficulty with compliance with conditions in the future. The panel considered that this response would have a negative impact on public confidence. The panel determined that it was necessary to take action to prevent Reverend Ayodele from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order. The panel therefore directs the registrar to strike Reverend Ayodele's name off the register.

The panel was fully aware of, and carefully considered, the effect a striking-off order would have on Reverend Ayodele's future professional life and ability to work in the healthcare sector but considered that such an order would be wholly compatible with his clearly expressed wish to be removed from the NMC register.

This striking-off order will take effect upon the expiry of the current conditions of practice order, namely the end of 5 March 2022 in accordance with Article 30(1).

This will be confirmed to Reverend Ayodele in writing.

That concludes this determination.