

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

**Substantive Order Review Meeting
Tuesday 26 September 2023**

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

Name of registrant: Motlalepula Jane Senne

NMC PIN: 02K0947O

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health Nursing, level 1 (November 2002)

Relevant Location: Monmouthshire

Type of case: Misconduct

Panel members: Tracy Stephenson (Chair, Lay member)
Esther Craddock (Registrant member)
Elaine Biscoe (Registrant member)

Legal Assessor: Sanjay Lal

Hearings Coordinator: Taymika Brandy

Order being reviewed: Suspension order (6 months)

Fitness to practise: **Impaired**

Outcome: **Striking- off order to come into effect on 4 October 2023 in accordance with Article 30(1)**

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 Mrs Senne's registered address by recorded delivery and first-class post on 22 August 2023.

The panel took into account that the Notice of Meeting provided full details of the review including the time, date and the fact that this meeting was being 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 Mrs Senne 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 impose a striking-off order. This order will come into effect at the end of 4 October 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 10 October 2022. This was reviewed on 13 February 2023 and a further suspension order was imposed for a period of 6 months.

The current order is due to expire at the end of 4 October 2023.

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, on 1 December 2020:

- 1) Deliberately/inappropriately turned off Resident A's room sensor alarm;*
- 2) Following Resident A having had a fall, failed to communicate in a kind and caring way in that you:
 - a) shouted at and/or abruptly told Resident A to get up;*
 - b) shouted and/or abruptly said words to the effect of "get up off the floor";*
*[...]**
- 5) Deliberately/inappropriately turned off the room sensor alarms for one, or more, resident's including:
 - a) Resident B*
 - b) Resident C;**

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

'The panel considered whether Mrs Senne's fitness to practise remains impaired.

The original panel found that it was not aware of any repetition since 1 December 2020 and that Mrs Senne has demonstrated some insight into the inappropriateness of her behaviour. At this meeting the panel found that no information has been provided by Mrs Senne to demonstrate any insight into her misconduct.

The original panel determined that Mrs Senne is at risk of repeating matters of the kind found proved. Today's panel has not received any new information to conclude that Mrs Senne is no longer at risk of such repetition.

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 Mrs Senne's fitness to practise remains impaired.'

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

'The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Senne further time to engage with the NMC and reflect on her failings. The panel concluded that a further suspension order would be the appropriate and proportionate response and would afford Mrs Senne adequate time to further develop her insight and take steps to strengthen her practice.

The panel considered that the imposition of a striking-off order would be disproportionate. The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register and that it was appropriate to support a nurse of general good character to return to safe practice. It would be unduly punitive in Mrs Senne's case to impose a striking-off order.

The panel determined that a suspension order is the appropriate sanction which would continue to both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months with review before expiry which would provide Mrs Senne with a further opportunity to engage with the NMC and to provide the information

suggested by the panel at the previous hearing. It considered this to be the most appropriate and proportionate sanction available.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Senne'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, which evidenced all attempts made by the NMC to contact Mrs Senne. The panel noted that Mrs Senne has made no contact with the NMC since January 2021.

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 also took into account the NMC guidance on impairment (reference: DMA-1) and considered whether Mrs Senne could '*practise kindly, safely and professionally?*'

The panel considered whether Mrs Senne's fitness to practise remains impaired. The panel noted that the previous panel had found that there had been no material change of circumstances since the original hearing to undermine the finding of current impairment. At this meeting the panel considered that Mrs Senne has disengaged with these regulatory proceedings despite the NMC making multiple attempts to contact her. Since the last review, the NMC have attempted to contact Mrs Senne at her last known telephone number, address and workplace, but to no avail.

The panel considered that there had been no material change of circumstances since the previous review and in the absence of any steps to strengthen her practice such as relevant training or evidence of remediation, the panel considered that Mrs Senne had not remediated the misconduct found proved. In the absence of such information, the panel considered that there remains a risk of repetition and therefore, Mrs Senne remained liable to act in a way which could place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel also could not be satisfied that Mrs Senne could practise '*kindly, safely and professionally*'. Accordingly, 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 Mrs Senne's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Senne'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 first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel 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 Mrs Senne'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 Mrs Senne'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 imposing a conditions of practice order would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel bore in mind Mrs Senne's lack of engagement with these proceedings and that she has not provided any up-to-date contact details to the NMC. Therefore, the panel was of the view that there is no indication that she would comply with any conditions imposed. In all the circumstances, the panel concluded that it would be unable to formulate practicable and workable conditions which would adequately protect the public and satisfy the public interest.

The panel considered the imposition of a further period of suspension. The panel took into account Mrs Senne's continued disengagement and lack of insight and it was not satisfied that a further period of suspension would procure any meaningful engagement from Mrs Senne. The panel was of the view that a further period of suspension would not serve any useful purpose or facilitate her eventual return to safe and effective nursing practice. In these circumstances, the panel considered that it was not in the wider public interest to impose a further period of suspension.

In all the circumstances, the panel determined that the only appropriate and proportionate sanction was that of a striking-off order in respect of the misconduct charges. The panel considered that this was necessary in order to protect patients from the ongoing risks associated with Mrs Senne's nursing practice that she has not

addressed. The panel considered that the NMC had gone to great efforts to try and get Mrs Senne to reengage with these proceedings, notably contacting a tracing agency to confirm if Mrs Senne had moved from her registered address. This agency confirmed that there was no evidence to suggest she had moved, in an email dated 17 May 2022. The panel was of the view that Mrs Senne's disengagement and lack of regard for the NMC as the regulator, raises fundamental questions about her professionalism and undermines public confidence in her ability to practise safely. A striking-off order is the only sanction that is sufficient to protect patients and members of the public and is otherwise in the public interest. It is also the only order that will maintain confidence in the nursing profession and in the NMC as a regulator in this case.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 4 October 2023 in accordance with Article 30(1).

This will be confirmed to Mrs Senne in writing.

That concludes this determination.