

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

**Substantive Order Review Hearing
Monday, 12 August 2024**

Virtual Hearing

Name of Registrant: Ethel Delali Adjo

NMC PIN 95Y00740

Part(s) of the register: RN1: Registered Nurse – Adult
(25 May 1995)

Relevant Location: Swindon

Type of case: Misconduct

Panel members: Peter Fish (Chair, lay member)
Janet Williams (Registrant member)
Rachel Barber (Lay member)

Legal Assessor: Graeme Henderson

Hearings Coordinator: Yewande Oluwalana

Nursing and Midwifery Council: Represented by Adam Squibbs, Case Presenter

Miss Adjo: Present and unrepresented

Order being reviewed: Suspension order (5 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (9 months) with a review to come into effect on 13 August 2024 in accordance with Article 30 (1)**

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a conditions of practice order with a review.

This order will come into effect at the end of 13 August 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of five months by a Fitness to Practise Committee panel on 14 February 2024.

The current order is due to expire at the end of 13 August 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse, whilst working at Great Western Hospitals NHS Foundation Trust:

1. *On 7 November 2018, having given that date as your start date, told LN, your line manager, that you could not stay that day, and left;*
2. *...*
3. *On 15 November 2018;*
 - a. *Failed to appropriately assess an unknown patient during triage by failing to ask necessary questions;*
4. *On 19 November 2018;*
 - a. *...*
 - b. *Failed to provide these competencies to AM at any point following that conversation;*

- c. *Told LC2, a colleague, that you believed only doctors could change suprapubic catheters;*
 - d. *Acted unprofessionally, in that you tried to persuade LC2 to let you change the catheter when you were not signed off in front of the patient;*
- 5. ...
- 6. *On 21 November 2018, confirmed to AM that you had IV administration competencies;*
- 7. ...
- 8. *On 22 November 2018, acted unprofessionally, in that you;*
 - a. ...
 - b. ...
 - c. *Heated and then ate breakfast instead of beginning working;*
 - d. *Ate breakfast in a clinical treatment room that should be kept sterile;*
- 9. *On 22 November 2018, failed to carry out appropriate IV administration, in that you;*
 - a. *Had to be corrected and/or prompted by ZH, a colleague, in your aseptic technique when preparing the IV antibiotics;*
 - b. *Failed to identify the difference between a securacath and a clamp;*
 - c. *Had to be told by ZH to move the tray closer to you to reduce risk of contamination;*
- 10. *On 23 November 2018;*
 - a. *Attempted to administer subcutaneous heparin in the wrong part of the patient's body;*
 - b. *Failed to first gain said patient's consent;*
 - c. *When the patient raised the mistake, glared at them, and did not apologise;*
 - d. *Failed to check the patient record and/or the authorisation to administer medication;*

- e. *Failed to follow handwashing procedure;*
- f. ...

11. *On 29 November 2018, during a triage shift;*

- a. *Told LC2 that you needed a 10-minute break to make a call but did not return for over an hour;*
- b. *Only returned when LC2 found you;*
- c. *Were dismissive when asked why you were gone for so long, and would not comment as to whether you realised how long you had gone for;*

12. *On 29 November 2018, in relation to Patient A;*

- a. *Telephoned prior to the visit, asking "I don't know where you are, do you really need a visit," or words to that effect;*
- b. ...
- c. ...

13. ...

14. *On 30 November 2018, during a performance meeting;*

- a. *Refused to make eye contact with AM;*
- b. *Replied to AM's questions with short or one-word answers, or not at all;*

15. ...

- a. ...
- b. ...

16. *On 13 January 2019, during triage, failed to;*

- a. *Ask the necessary questions;*
- b. *Speak at an appropriate volume and/or with appropriate clarity;*
- c. *Remember the patient's name;*

17. *On 14 January 2019, acted unprofessionally, in that you snapped at LN, telling them that it was their responsibility to check the payroll for you;*

18. *On 21 January 2019, acted unprofessionally, in that you ignored safety warnings regarding the use of a particular desk, instead spreading your arms all over it;*

19. ...

a. ...

b. ...

20. ...

21. *On 11 March 2019;*

a. *Arrived at 09:35 for training that commenced at 09:00;*

b. *When refused entry, said "Jesus, you told me the wrong time" or words to that effect;*

...

22. *On 18 March 2019, failed to attend a cannulation course;*

23. *On 29 March 2019, failed to attend a cannulation course;*

24. *On 2 April 2019, in a meeting with SF, your A&E manager, acted unprofessionally, muttering "Jesus Christ";*

25. *On 21 May 2019;*

a. *Failed to carry out observations on patients;*

b. *Told JS, a Senior Sister that you had carried out one or more observations when you had not;*

26. *Your conduct at charge 25.b. was dishonest in that you knew you had not completed the observation(s) but intended for SF to believe that you had;*

27. *On 27 May 2019, failed to provide adequate care to a patient, in that you;*

a. ...

b. *Failed to introduce yourself;*

c. ...

d. Offered the patient pain relief shortly after they had received pain relief;

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 next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the 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. To justify that trust, nurses must be honest and open and act with integrity. 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. At 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.'

At paragraph 76, 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/ fitness to practise is impaired in the sense that s/he:

- 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) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that limbs a, b, c and d were engaged in this case. It also determined that your misconduct is a serious breach of both trust and the fundamental tenets of the nursing profession and, further, brings the profession into disrepute.

There was no evidence of actual harm to patients. However, it concluded that your actions had the potential to cause harm to patients such as lack of

patient observation, attention to infection control, clinical practice in care in so far as administration of heparin/fragmin.

The panel considered that certain types of misconduct, including attitudinal issues and dishonesty are difficult to address. The panel was of the view that there is a risk of repetition because you have very limited insight into your misconduct and do not seem to accept responsibility for your failings. There is no or little evidence that you have taken any steps towards strengthening your practice or addressing your shortcomings. The panel found your practice presents a risk to the public and could bring the profession into disrepute, and that you have breached the fundamental professional principles.

The panel accepted your point in that you had been practising for over 20 years. The panel considered that despite the extra challenges in the role which resulted in these proceedings, you should have been able to conduct yourself professionally. The findings against you are such that the panel does not accept you acted professionally all of the time as you suggested. The most significant aspect of your misconduct was that you, were dishonest in relation to your failure to carry out observations on a patient, which involved your lying about was written on an observation chart.

Furthermore, the panel was not satisfied that the concerns highlighted will not recur if you were faced in a similar situation in a working environment in which you were not comfortable. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel therefore also found your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.'

The original panel determined the following with regard to sanction:

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

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- 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 next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. As a result of your further evidence, it became clear that when you had previously said you had retired in the previous year, that related only to your retirement from a fulltime employment with the Trust. You have been working at Northwick Park Hospital and have been working for roughly two or three shifts per week, generally at night. It is accepted by the NMC that there is no misconduct during the course of your career outside the period of six months, which is the basis for the panel's findings of misconduct.

Consequently, it appears that you have been able to work for a period of nearly five years without any evidence that you present a risk to the public. The panel is not persuaded that there is no risk, given its findings of

misconduct during this six months period. However, it would be unrealistic and unfair not to take this period of work into account in assessing the risk that you might represent. No application appears to have been made for an interim order by the NMC during the intervening period.

The panel considered that it would not be necessary to impose a suspension on public protection grounds. However, the seriousness of the misconduct and in particular the matter set out in charges 25 and 26, relating to observations and dishonesty, have satisfied the panel that it is necessary to make a suspension order on public interest grounds. The period of this suspension order will be five months. This, in the panel's judgment, will be sufficient to mark the seriousness of the misconduct, but not to terminate your career as a nurse.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

...

Any future panel reviewing this case would be assisted by:

- *You providing a detailed reflective piece to the panel before the next review, to demonstrate how you have improved your insight and your practice since June 2019*
- *Any training certificates relating to nursing since June 2019*

- *You providing references/testimonials from your employers/supervisors both as a nurse and if appropriate any other employment. You may be assisted by referring to the NMC guidance relating to references/testimonials (FTP-13b)*
- *Your attendance at the next review hearing'*

Decision and reasons on current impairment

The panel has considered carefully whether your fitness to practise remains impaired. 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 your reflective statement and training record. It has taken account of the submissions made by Mr Squibbs on behalf of the Nursing and Midwifery Council (NMC). He took the panel through the background of the case and submitted that you remain impaired on the grounds of public protection. Mr Squibbs submitted that your reflection statement provided does not address the concerns found proved by the previous panel and that you lay blame at others and do not acknowledge your own failings. Mr Squibbs said that you have not taken any real steps to address the behaviours and that it is up to the panel to determine whether there are deep seated attitudinal concerns.

Mr Squibbs submitted that the NMC are neutral on what sanction should be imposed and that it may be the wish of the panel to continue the existing order or change the order to a conditions of practice order.

The panel also had regard to your submissions. You expressed remorse and apologised about the incidents and said that “things of this nature would not happen again”.

You provided the panel with some context about the working environment at your previous employment. You said that you have worked as a registered nurse for 27 years, with no regulatory concerns apart from the referral in 2019. You said up until you were suspended

following the substantive hearing in 2024, you had been working since the incidents referred to unrestricted and no issues of this nature were raised against you.

You said that communication forms the bedrock of your profession and if you were unable to communicate to patients, families and colleagues you would not have been in this career for so long. You said that following the role as a nurse in the community, you contacted your manager in the A & E department and asked if you could come back to work on the ward. You said the manager was happy to have you back. You emphasised that if you were a bad nurse your manager would not have accepted you.

You informed the panel that your mandatory training is up to date and that you were unable to gain access to your former employer's system to obtain this evidence. You said that when working bank shift as a nurse you are still required to do training.

Following panel questions, you said you were not working at the moment. You said you would like to return to working as a nurse once a week to help patients and you would like to return to an acute care setting.

Further you clarified that the mandatory training could be yearly, twice a year or sometimes only once. This information would be on your training portal, and you would be notified if any training was outstanding. You said that as a professional you need to be proactive in being up to date with your training.

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 your fitness to practise remains impaired.

The panel noted that the original panel found that you had limited insight into your misconduct and did not seem to accept responsibility for your failings.

At this hearing you apologised for the misconduct and expressed that things of this nature would not happen again. The panel recognise that for five years you had been working with no further concerns since the incident arose. You acknowledged and reflected that the job you applied for was outside your experience, you are also aware that there is a requirement on you to find out more about roles and the responsibilities in order to put a plan in place. The panel were confident in this respect that this concern would not arise again.

However, the panel noted that some of the issues identified by the previous panel were serious. There was nothing before it today that showed you understood the potential risks to patients arising from your clinical failings, took steps to address these and/or reflected on them. The panel is not satisfied that this risk of harm would not arise in the future.

The panel noted that you still dispute some of the facts found proved a regarding your failure to carry out observations and telling a senior sister you had carried them out. Given a previous panel has found these facts proved, the panel would expect to see you have reflected on the findings on honesty and integrity, albeit that you disagree with them.

The panel accepted that as a registered nurse you would have undertaken and completed mandatory training up until the time you were suspended. It also acknowledged the difficulty in you obtaining the documents to support this. Nevertheless, the panel had no information from you to show how you would do things differently if a similar situation like this arose in the future. It has noted your assertion that this would not happen again, however there was no detailed explanation on how you would handle a stressful or pressurised situation such as you say you faced during the period when the concerns arose.

The panel was not satisfied that you have remedied the concerns found proved. In light of this, this panel determined that you are still liable to repeat matters of the kind found proved. The panel therefore decided that a finding of current 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 current impairment on public interest grounds is not required as this was served by the five-month suspension.

For these reasons, the panel finds that your fitness to practise remains impaired on the grounds of public protection only.

Decision and reasons on sanction

Having found your 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. The panel decided that it would be neither proportionate nor would it protect the public.

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 protect the public to impose a caution order.

The panel considered substituting the current suspension order with a conditions of practice order at the end of the existing suspension order. Despite the seriousness of your misconduct, there has been evidence produced to show that you have developed some insight and demonstrated remorse. You have indicated that you wish to return to nursing.

The panel was satisfied that it would be possible to formulate practicable and workable conditions that, if complied with, may lead to your unrestricted return to practice and would serve to protect the public.

The panel considered whether to impose a further suspension order but considered that it would be disproportionate given that workable conditions of practice can be formulated to address the public protection concerns.

The panel decided that the public would be suitably protected by the implementation of the following conditions of practice:

‘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 nursing practice to one substantive employer.
This can be an agency, providing the placement is in one location for no less than 3 months.
2. You must ensure that you are supervised by a registered nurse until signed off as competent to do so by a registered nurse any time you carry out the following:
 - a) Intravenous medication injections
 - b) Subcutaneous injections
 - c) Aseptic technique on wound care
3. You must meet every month with your line manager or supervisor or mentor (who must be a registered nurse) to discuss:
 - a) Intravenous administration
 - b) Aseptic technique and wound care
 - c) Observations and record keeping
 - d) Communication with patients and colleagues

4. You must provide the NMC with a report from your line manager or supervisor or mentor (who must be a registered nurse) seven days prior to the next substantive review in relation to the areas in Condition 3.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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 nine months with a review.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 13 August 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Providing a reflective statement on the value of honesty in the nursing profession.
- Evidence of any further training undertaken.
- Testimonials from colleagues, line managers, supervisors you are working with/ worked with.
- Your attendance at any review hearing.

This will be confirmed to you in writing.

That concludes this determination.