

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

**Substantive Order Review Meeting
Monday 16 December 2024**

Virtual Meeting

Name of registrant: Olatokunbo Adebayo

NMC PIN: 09K0542E

Part(s) of the register: Registered Nurse
RNA: Adult nurse (L1) – September 2011

Relevant Location: London, Swansea, and Neath Port Talbot,
Shrewsbury

Type of case: Misconduct

Panel members: Paul Grant (Chair, Lay member)
Vivienne Stimpson (Registrant member)
Paul Hepworth (Lay member)

Legal Assessor: Graeme Sampson

Hearings Coordinator: Monsur Ali

Order being reviewed: Conditions of practice order (18 months)

Outcome: **Suspension order (6 months) to come into effect at the end of 31 January 2025 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 Miss Adebayo's registered email address by secure email on 6 November 2024.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Adebayo 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 replace the current conditions of practice order with a suspension order for a period of six months. This order will come into effect at the end of 31 January 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 18 months by a Fitness to Practise Committee panel on 3 July 2025.

The current order is due to expire at the end of 29 October 2023.

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

The charges 1a, 1b, 2a, 2b, 2c, 3a, 3b, 3c found proved which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse:

- 1) Between April 2018 and June 2019 whilst working as an agency nurse at different hospitals, you failed to maintain safe medication management and administration in that:*

- a) *During a night shift on 22 May 2018, you failed to administer medication to one or more patients;*
 - b) *During a night shift on 23 June 2019, you pre-potted medication for one or more patients;*
 - c) *...;*
- 2) *Between 22 May 2018 and 23 May 2018, you failed to support and/or work collaboratively with colleagues in that you:*
- a) *Refused to assist Colleague 1 with a patient and said “it is not my job” or words to that effect;*
 - b) *Failed to assist colleagues by not attending to patient call bells despite being available;*
 - c) *Told Colleague 1 that you were too busy to assist with patient care while using your personal phone during a busy shift and/or whilst patients required assistance;*
- 3) *Between 22 May 2018 and 23 May 2018, demonstrated poor patient care in that you:*
- a) *Were rude and dismissive towards a patient who had asked for assistance and said “it’s not my job, it is not my area, I suggest you keep buzzing until the helper comes” or words to that effect;*
 - b) *Refused to assist one or more patients who had asked for and/or required assistance;*
 - c) *Ignored call bells from one or more patients when you were available to assist;*
 - d) *...*

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, Miss Adebayo's fitness to practise is currently 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.'

In 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) *...'*

The panel considered that limbs a, b and c of the above test were engaged by Miss Adebayo's past actions.

The panel finds that Miss Adebayo's patients were put at risk of physical harm and were also caused emotional distress as was Miss Adebayo's colleague. This was a result of Miss Adebayo's misconduct. Miss Adebayo's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel had limited information before it. The panel took into account that 'Statement regarding incident on ward 24' dated 5 December 2018, which Miss Adebayo provided to the Hospital during the course of its internal investigations, and which includes Miss Adebayo's reflections. The panel noted that it has no information before it as to whether Miss Adebayo is working or where she is working, and that it has otherwise, no up to date information from Miss Adebayo.

The panel had regard to the case of Cohen and considered that Miss Adebayo's actions were remediable. The panel went on to consider whether Miss Adebayo remained liable to act in a way to put patients at risk of harm, to bring the profession into disrepute and to breach fundamental tenets of the profession in the future. In doing so, the panel considered whether there was any evidence of insight and remediation.

Whilst the panel concluded that the misconduct in this case is capable of being remediated, the panel has no evidence before it of whether Miss Adebayo's has taken steps, if any, to address her misconduct and strengthen her practice. The

panel, therefore, found that there is a risk of repetition. The panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Adebayo's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'Having found Miss Adebayo'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 (Sanctions Guidance). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Misconduct which put patients at risk of suffering harm.*
- Actual upset and distress caused to patients and a colleague.*
- Apparent lack of insight into failings.*

The panel did not find any mitigating features in terms of insight and remediation.

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 public protection issues identified, an order that does not restrict Miss Adebayo'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 Adebayo'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 and risk of repetition. 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 Adebayo's 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:

- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- Potential to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case.

The panel had regard to the fact that these incidents happened a long time ago and that, other than these incidents, Miss Adebayo had an unblemished career as a

nurse. The panel was of the view that it was in the public interest that, with appropriate safeguards, Miss Adebayo should be able to return to practise as a nurse. Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel noted that Miss Adebayo had to date, failed to fully comply with previous orders and engage with the process, although as far as the NMC were aware, she had not been practising as a registered nurse since April 2020. It was not clear if this was due the pandemic, [PRIVATE] the challenges of securing agency work with restrictions on her practice, or a general unwillingness to engage at that stage. The panel decided it was fair to provide her with this opportunity to engage, whilst at the same time through a conditions of practice order provide the requisite protection for the public.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Miss Adebayo's case. A conditions of practice order would be sufficient enough to protect the public and to enable Miss Adebayo to strengthen her practice.

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

The panel determined that the following conditions are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery, or nursing associate role.

Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery, or nursing associates.

- 1. You must not be the nurse in charge of the shift.*

2. *You must not manage or administer any medication without direct supervision by a registered nurse.*
3. *You must keep a personal development log to address how you are strengthening your practice in relation to:*
 - *The management and the administration of medication including, where appropriate electronic systems*
 - *Treating patients with dignity and respect*
 - *Working with colleagues to provide effective care*
 - *Communication with colleagues, including handover*

The log must:

- *Contain the dates that you carried out these tasks*
- *Show where you are working*
- *Be signed by your supervisor*
- *Contain feedback from your supervisor on how you carried the tasks out*

You must send your case officer a copy of the log every three months.

4. *You must prepare and submit a reflective piece that addresses the concerns in the charges and what you have done to strengthen your practice and minimise the risk of repetition.*
5. *You will send the NMC a report seven days in advance of the next NMC hearing or meeting from either your line manager, mentor, or supervisor.*
6. *You must keep us 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.*
7. *You must keep us 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.*
8. *You must immediately give a copy of these conditions to:*
- a) *Any organisation or person you work for.*
 - b) *Any agency you apply to or are registered with for work.*
 - c) *Any employers you apply to for work (at the time of application).*
 - d) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - e) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.*
9. *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.*

10. *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 18 months.'

Decision and reasons on current impairment

The panel has considered carefully whether Miss Adebayo's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of the nurse, midwife or nursing associate to practise kindly, safely and professionally. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle.

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 Miss Adebayo's fitness to practise remains impaired. In its consideration of whether Miss Adebayo has taken steps to strengthen her practice, there is no evidence before the panel to demonstrate that Miss Adebayo has taken any steps nor has she developed insight into her misconduct. The panel noted that there is no

evidence before to show that Miss Adebayo has worked as a registered nurse since the imposition of the order.

Today's panel noted that the original panel concluded that the misconduct in this case is capable of being remediated, but it had no evidence before it of whether Miss Adebayo had taken steps, if any, to address her misconduct and strengthen her practice. Further, this panel has no information about what Miss Adebayo is currently doing and whether she intends to continue to practise as a registered nurse. The panel, therefore, found that there is a risk of repetition and a real risk of harm to the public, and decided that a finding of 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 professional 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 Miss Adebayo's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Adebayo'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. 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 Adebayo'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 Adebayo'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 continuation of the current conditions of practice order on Miss Adebayo'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 concluded that the charges found proved reflect an underlying attitudinal issue, exacerbated by Miss Adebayo's prolonged lack of engagement with the regulatory process since the imposition of the order. Miss Adebayo's actions were unprofessional and could have had significant consequences for the patients and put them at risk of harm. The panel noted that at the original hearing, the previous panel determined that the identified failings were remediable. However, Miss Adebayo provided no communication prior to that hearing to indicate her intention to continue practising as a nurse or any information regarding her professional activities.

Further, despite being required to communicate and provide submissions for this review, Miss Adebayo has failed to do so. There is no evidence before the panel demonstrating her current actions, reflections or her commitment to continuing as a registered nurse.

On this basis, the panel concluded that a conditions of practice order is no longer practicable or appropriate order in this case. The panel concluded that no workable conditions of practice could be formulated that would ensure Miss Adebayo engage with the hearing process and in turn would protect the public or satisfy the wider public interest.

The panel did consider the imposition of a striking-off order, however, considered that such an order would be disproportionate at this stage. It further emphasised that Miss Adebayo

must be aware that at the next review hearing, the ultimate sanction of a striking-off order will again be available to the reviewing panel.

The panel determined therefore that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six would provide Miss Adebayo with an opportunity to engage with the NMC and to provide evidence of compliance with previous conditions of practice order. It considered this to be the most appropriate and proportionate sanction available.

In light of her continued lack of engagement, the panel determined that a conditions of practice order would not serve its intended purpose, as it is not facilitating her return to practise. Consequently, the panel concluded that a suspension order is necessary, not only to protect the public but also to convey to Miss Adebayo the importance of engaging with these proceedings if she wishes to maintain her nursing career.

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Miss Adebayo's engagement with the proceedings.
- Information about any paid or unpaid employment.
- Any testimonial and/or character references from that work.
- Information about whether Miss Adebayo wishes to work as a registered nurse in the future.
- Inform the NMC of any other material changes to her circumstances.
- Evidence of any continued professional development training she has undertaken.

This decision will be confirmed to Miss Adebayo in writing.

That concludes this determination.