

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

**Substantive Order Review Hearing
03 December 2024**

Virtual Hearing

Name of Registrant: Abeni Olutayo Odebode

NMC PIN 17G0853E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – July 2018

Relevant Location: Berkshire

Type of case: Misconduct & Lack of competence

Panel members: Avril O'Meara (Chair, lay member)
Allwin Jay Mercer (Registrant member)
David Raff (Lay member)

Legal Assessor: Tracy Ayling KC

Hearings Coordinator: Abigail Addai

Nursing and Midwifery Council: Represented by Beverley Da Costa, Case Presenter

Abeni Olutayo Odebode: Not present and unrepresented

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of 12 January 2025 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Odebode was not in attendance and that the Notice of Hearing had been sent to Mrs Odebode registered email address by secure email on 31 October 2024.

Miss De Costa, 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 and date of the hearing and that the hearing was to be held virtually. The Notice of Hearing also included instructions on how to join and, amongst other things, information about Mrs Odebode'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 of the information available, the panel was satisfied that Mrs Odebode 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 Mrs Odebode

The panel next considered whether it should proceed in the absence of Mrs Odebode. The panel had regard to Rule 21 and heard the submissions of Ms Da Costa who invited the panel to continue in the absence of Mrs Odebode. She submitted that Mrs Odebode had voluntarily absented herself.

Ms Da Costa submitted that there had been no engagement at all by Mrs Odebode with the NMC in relation to these proceedings and as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Odebode. In reaching this decision, the panel has considered the submissions of Miss Da Costa and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Odebode
- Mrs Odebode has not engaged with the NMC and has not responded to any of the emails sent to her about this hearing, including recent emails on 11th November and 2nd December 2024
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- This hearing is a statutory review of an order that expires at the end of 12 January 2025 and, there is a strong public interest in the expeditious review of the order.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Odebode.

Decision and reasons on review of the substantive order

The panel decided that on the expiry of the current suspension order, a striking off order should take effect.

This order will come into effect at the end of 12 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 14 June 2022. This was reviewed on 24 May 2023 and the panel extended the order for a further 12 months. On 15 May 2024, the panel extended the order for 6 months.

The current order is due to expire at the end of 12 January 2025.

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 as a registered nurse;

Between 2 September 2018 and 1 November 2018, whilst working on Eashing Ward, failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse in that you;

1. *Between 20 September 2018 and 17 October 2018 failed to manage your time in order to:*
 - (a) *Complete learning and/or training in specific areas;*
 - (i) *Tissue Viability Nurse online training*
 - (ii) *Medicines Theory Workbook*
 - (iii) *Practical Medication Assessment*
 - (iv) *VitalPac training*
 - (v) *Blood glucose charts*
 - (vi) *NEWS training*
 - (b) *Deal with patients whilst working on the bay*
 - (c) *Complete patient notes prior to leaving work*
 - (d) *Complete handovers prior to leaving work*
 - (e) *Adequately write up patient care plans*
 - (f) *...*
 - (g) *Complete drug rounds in a timely manner*

2. *Between the 1 October 2018 and 4 October 2018 had to be prompted:*
 - (a) *To check patients name bands*
 - (b) *To check the allergies for each patient*
 - (c) *To complete hand hygiene between each patient*

- (d) To check the drug chart prior to administering drugs to a patient*
 - (e) To check the prescription for a patient*
 - (f) That medication had already been provided to a patient*
- 3. On the 2 October 2018 were unable to successfully complete a medication administration assessment.*
 - 4. On the 16 October 2018 incorrectly placed a blood pressure cuff on a patient.*
 - 5. On the 15 October 2018 were unable to complete relevant patient documentation whilst monitoring blood glucose levels.*
 - 6. On the 15 October 2018 were unable to understand abbreviations contained within patient notes.*
 - 7. On the 15 October 2018 were unaware and/or unable to understand NEWS system.*

Between 2 December 2018 and 25 July 2019, whilst working in the Endoscopy Unit, failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse in that you;

- 8. Between the 28 May 2019 and the 12 July 2019 were unable to consistently go through the World Health Organisation (“WHO”) checklist by;*
 - (a) Failing to ensure that patient notes match the WHO form*
 - (b) ...*
 - (c) Failing to clarify the procedure with the patient*
 - (d) Failing to check whether the patient had any questions about the procedure*
 - (e) Failing to label biopsies taken during the procedure*
 - (f) Failing to ensure drug charts had been completed adequately*
 - (g) Failing to check a patient’s name against their wrist band*
 - (h) Failing to document the number of specimens taken*
- 9. Were seen to handle and/or handover biopsy forceps incorrectly;*

- (a) *On or around the 18 March 2019.*
- (b) *On the 11 July 2019.*
- (c) *On other unknown dates.*

10. *Were unable to recognise and/or state the location from which a biopsy had been taken from a patient;*

- (a) *On the 11 July 2019*
- (b) *On other unknown dates*

11. *Were unable to manage and/or prioritise time when recovering patients in the Recovery Room;*

- (a) *On the 11 July 2019*
- (b) *On other dates unknown*

12. *On the 11 July 2019 failed to set up suction equipment to manage a patient's airway correctly.*

13. *On an unknown date and/or dates were unable to demonstrate competence to manage a patient's airway in that you needed prompting when suction was required.*

14. *On an unknown date and/or dates were unable to complete complex discharges.*

15. *On an unknown date and/or dates were unable to cannulate unsupervised despite being signed off as competent in May 2019.*

16. ...

- (a) ...;
- (b) ...

17. *On the 22 July 2019 incorrectly selected Pethidine to be administered to a patient when it should have been Midazolam.*

18. In the week commencing the 25 February 2019, incorrectly removed the line containing the blood from the pump when not intravenous trained.

And in light of charges 1 – 18 above your fitness to practise is impaired by reason of your lack of competence.

That you a registered nurse;

19. ... :

(a) ...;

(b) ...;

(c)

20. On the 10 July 2019 fell asleep whilst monitoring patient C.

21. On the 17 July 2019 fell asleep whilst monitoring patient B.

And in light of charges 19 to 21 above your fitness to practise is impaired by reason of your misconduct.'

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

'The panel had no information regarding Mrs Odebode's level of insight at this time. Given Mrs Odebode's lack of engagement with these proceedings the panel has no evidence to conclude that the level of risk has been reduced.

The panel considered the concerns to be very serious and wide ranging relating to a broad range of fundamental nursing skills including poor time management, medication administration, poor record keeping and failure to properly monitor patients. The panel considered that these incidents occurred over a sustained period whilst Mrs Odebode was receiving extensive support from her colleagues. It

took the view that there remains a real risk of repetition because there is nothing to indicate that she can now practise kindly, safely and professionally.

In its consideration of whether Mrs Odebode has taken steps to strengthen her practice, the panel had no evidence of strengthened practice or relevant training. Given the breadth of deficiencies in Mrs Odebode's practice, the panel determined that it will take a sustained effort from Mrs Odebode to remedy the concerns identified. 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. Given the risk of repetition and the breadth of the concerns, the panel determined that a well-informed member of the public would be shocked if the NMC did not make a finding of impairment in these circumstances. 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 Odebode's fitness to practise remains impaired'.

The second 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 Odebode further time to engage with these proceedings, fully reflect on her previous failings and take the necessary steps to return to safe and effective practice.

In making its decision regarding whether to impose a suspension or a strike-off the panel had regard to the NMC guidance on 'Standard Reviews of Substantive Orders before they expire' (REV-3a). It states:

'When extending the duration of the existing order, a panel cannot extend a conditions of practice order by more than three years at a time, or a suspension order by more than one year at a time.

*When replacing one order with another in a case based on health, **lack of competence**, or not having the necessary knowledge of English, **a panel cannot make a striking-off order** unless the nurse, midwife or nursing associate has been on a substantive conditions of practice order, a substantive suspension order, or a combination of the two, **for more than two years.***

Any time spent on an interim order does not count towards the two year period.

For example, if a nurse, midwife or nursing associate has been subject to two 12 month suspension orders (one following on immediately from the first), a panel cannot make a striking-off order at the second standard review.

This is because the nurse, midwife or nursing associate will not have been on a substantive order for a total period of two years when the panel is carrying out the review hearing, as the review hearing takes place before expiry of the second 12 month suspension order.

Any change to the order, or extension of the order, does not take effect until the existing order expires.'

Based on the guidance, the panel determined that it was unable to consider imposing a striking-off order in relation to the competency issues. Given the nature of Mrs Odebode's misconduct, the panel took the view that it would be disproportionate to impose a strike-off order on that basis alone. However, it noted that a future panel will have all the sanction options available to it because two years will lapse on 12 July 2024. If Mrs Odebode's limited engagement with the NMC continues, a strike-off may be an option under close consideration for the next panel.

The panel therefore concluded 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 that imposing a suspension order for the period of 6 months would provide Mrs Odebode with an opportunity to meaningfully

engage with the NMC, further develop her insight and provide evidence of strengthened practice. It considered this to be the most appropriate and proportionate sanction available at this time.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 12 July 2024 in accordance with Article 30(1).'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Odebode'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. It has taken account of the submissions made by Ms Da Costa on behalf of the NMC. She took the panel through the background of the case and the previous panel's decision.

She submitted that Mrs Odebode has not engaged with the NMC or these regulatory proceedings. She submitted that the matters found proved were serious and wide ranging and the lack of competence issues related to a broad range of fundamental nursing skills over a sustained period when Mrs Odebode had been receiving support and supervision. The misconduct related to her falling asleep whilst at work. She submitted that as Mrs Odebode has failed to engage with these proceedings there is no evidence of insight into her lack of competence or misconduct and no evidence that she has strengthened her practice. Ms Da Costa invited the panel to find that Mrs Odebode is currently impaired on both public protection and public interest grounds.

Regarding sanction Ms Da Costa said that the NMC adopts a neutral position and it is a matter for the panel. However, the panel may wish to consider whether a suspension order is appropriate, in light of Mrs Odebode's failure to engage. Ms Da Costa noted that the previous panel had said that if Mrs Odebode did not engage with the proceedings it would

be open to a future panel to consider a strike off as over two years would have passed since the imposition of the original order.

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 Mrs Odebode's fitness to practise remains impaired.

The panel noted that the second reviewing panel found Mrs Odebode had no evidence of developing insight, strengthened practice or relevant training. Mrs Odebode has not engaged with these proceedings or attended today's hearing. Therefore, the panel has no evidence of insight, strengthened practice or training. The panel considered the concerns are extremely serious and wide ranging and relate to fundamental nursing skills. The panel noted that the incidents occurred over a period of time while Mrs Odebode was receiving extensive support and supervision. The panel determined that there remains a real risk of repetition of the failings found proved and Mrs Odebode would therefore pose a significant risk of serious harm to patients if she were permitted to return to unrestricted practice. The panel therefore found Mrs Odebode impaired 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. Given the risk of repetition and the breadth of the concerns, the panel determined that a well-informed member of the public would be extremely concerned if the NMC did not make a finding of impairment in these circumstances.

For these reasons, the panel finds that Mrs Odebode's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Odebode'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, the competency concerns and the public protection issues identified, an order that does not restrict Mrs Odebode'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 Odebode'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 a conditions of practice order on Mrs Odebode'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 bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel determined that as Mrs Odebode has failed to engage with these proceedings, a conditions of practice order would not be workable.

The panel next considered imposing a further suspension order. It carefully considered whether this would address the public interest and protect the public. The panel acknowledged that this is the third review of the original order and Mrs Odebode has been

suspended for over 2 years and has failed to engage in these proceedings. Mrs Odebode has not demonstrated any insight into her failings. Given Mrs Odebode complete failure to engage with these proceedings, the panel therefore determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel carefully considered a striking off order. In doing so, it took account of the NMC Guidance to Panels; Standard reviews of substantive orders before they expire (Reference: REV-3a) and Removal from the register when there is a substantive order in place (Reference: REV-3h).

REV-3h states that cases where striking off is likely to be appropriate include when:

- *The professional has shown limited engagement and/or insight;*
- *Or the professional has otherwise made no or negligible progress towards addressing issues with their fitness to practise.*

The panel determined that Mrs Odebode has shown no engagement or insight and has provided no evidence of progress towards addressing the issues with her fitness to practice.

The panel referred to REV-3h and asked itself the following questions:

- *Are there now fundamental questions about the nurse, midwife or nursing associate's professionalism?*
- *Can public confidence in nurses, midwives and nursing associates now be maintained if the nurse, midwife or nursing associate is not struck off from the register?*
- *Is striking-off now the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel determined there are fundamental questions about Mrs Odebode's professionalism given her total failure to engage with these proceedings. The panel was satisfied that a striking off order is the only proportionate and appropriate sanction that

would maintain public confidence in the nursing profession and declare and uphold proper standards of conduct and performance.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 12 January 2025 in accordance with Article 30(1).

This decision will be confirmed to Mrs Odebode in writing.

That concludes this determination.