

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

**Substantive Order Review Hearing
Friday, 14 June 2024**

Virtual Hearing

Name of Registrant: Pius Igwe

NMC PIN 16G1859E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – (8 September 2016)

Relevant Location: Cornwall

Type of case: Misconduct

Panel members: James Lee (Chair, Registrant member)
Amanda Revill (Registrant member)
Dora Waitt (Lay member)

Legal Assessor: William Hoskins

Hearings Coordinator: Nicola Nicolaou

Nursing and Midwifery Council: Represented by Bianca Huggins, Case Presenter

Mr Igwe: Present and represented by Carl Buckley, instructed by the Royal College of Nursing (RCN)

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months)
to come into effect on 25 July 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.

This order will come into effect at the end of 25 July 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 6 months by a Fitness to Practise Committee panel on 21 December 2023.

The current order is due to expire at the end of 25 July 2024.

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

The charges found proved which resulted in a finding of misconduct, and the imposition of the substantive order are as follows:

'That you, a registered nurse, whilst working at the Royal Cornwall Hospital NHS Trust ('the Trust'):

On or around the night shift of 18/19 October 2021;

1) Whilst speaking to a Patient A, used words to the effect;

a) 'You are disgusting human being.' [PROVED]

b) ...

c) ...

d) 'You dirty filthy old lady making noise.' [PROVED]

e) 'Filthy lady.' [PROVED]

2) ...

a) ...

b) ...

i) ...

ii) ...

c) ...

On or around the night shift of 2/3 November 2021;

3) ...

4) *Left the unknown patient in bed F2 with wet/soiled bedding. [PROVED]*

5) *Did not response to the care needs of one or more of the patients in the middle bays allocated to you. [PROVED]*

6) ...

7) *Behaved in a confrontational manner towards Colleague Z. [PROVED]*

8) ...

9) *On one or more occasion when asked by colleagues about conducting personal care, used words to the effect;*

a) *'I don't touch women.'* [PROVED]

b) *'Care rounds are not my job.'* [PROVED]

c) *'It's not my job.'* **[PROVED]**

10) *Reacted angrily when asked by Colleague Y to assist cleaning a transfer patient who had soiled themselves, in that you;*

a) ...

b) *Cleaned the patient in an aggressive manner.* **[PROVED]**

c) *Continued to clean the patient harshly after they had complained to you about the pain/aggressive cleaning.* **[PROVED]**

d) *Used words to the effect 'Not my job to do this'* **[PROVED]**

e) *Shouted at Colleague Y, words to the effect 'It is your job to clean the patient's bottom, not mine.'* **[PROVED]**

11) *Responded to a female patient in bed E-4 requesting personal care for soiled bedding with words to the effect 'Wait until morning to get a bed change.'*
[PROVED]

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

The original substantive 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.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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 [Nursing and Midwifery Council] 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 Dame Janet Smith's test as set out in the Fifth Shipman Report were engaged by your past actions. The panel found that your use of inappropriate language towards Patient A, your aggressive cleaning of the patient referred to in charge 10) even after the patient complained about the pain you were causing, as well as your failure to cooperate with Colleague Y in providing proper care, put patients at risk of physical and emotional harm. The panel also considered that members of the public would not expect a registered nurse to behave in such a manner. The panel therefore considered that your actions brought the profession into disrepute and also breached fundamental tenets of the profession.

The panel went on to consider whether you are liable in the future to place patients at risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession. In doing so, the panel assessed your levels of insight, remorse and remediation.

The panel had regard to the test set out in the case of Cohen. The panel determined that your conduct could be remediable. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account your evidence including testimonials and certificates.

The panel had sight of the training certificates you submitted and noted that the training appeared to have been largely conducted in short bursts of time. It also noted that some of the certificates contained reflective questions related to applying your learning to your role and documenting it for formal Continuing Professional Development (CPD) purposes which you had not been completed. Furthermore, the panel have not heard any evidence of your application of learning in your practice.

Whilst the panel acknowledged your progress in strengthening your practice and the absence of concerns raised regarding your practice in the two years since the matters relating to the charges arose. The panel noted that the testimonials

provided were primarily received from HCA's with only one testimonial from a home manager. Additionally, the panel noted the lack of up-to-date reflections since December 2022 and insufficient evidence from senior nurses that adequately evaluate your current practice.

The panel took into account your reflections on all of the charges and found that whilst there was some insight, it was not yet fully developed.

The panel also considered your response in relation to charge 1) concerning Patient A. It noted that your reflection solely addressed your communication skills with no insight shown into the inappropriate actions that caused distress to Patient A. Your response indicated improvements in communication skills, but the panel found that the misconduct identified in the charges was not as a result of your communication skills but in the words you used nor did your reflections provide reassurance to the panel about your comprehension of the impact of your misconduct.

The panel found your responses to all of the charges largely lacked insight regarding the effect of your misconduct on the patients, colleagues, the reputation of the nursing profession and the public.

In light of the above, the panel considered that you are liable to breach all three limbs of the Grant test in the future. The panel therefore found a finding of impairment on the grounds of public protection was necessary.

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 noted that some of the charges are so serious that even if you had addressed them, a finding of impairment would still be required in the public interest. It recognised that the public would have concerns regarding the use of such language, particularly when it comes from a nurse who is always expected to

be caring and respectful towards patients. The panel therefore did consider that public confidence in professional standards and the nursing profession would be undermined if no finding of current impairment were made on public interest grounds.

Having regard to all of the above, the panel determined that your fitness to practise is currently impaired on the grounds of public protection and public interest.'

The original substantive panel determined the following with regard to sanction:

'The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a suspension order may be appropriate where some of the following factors are apparent:

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*
- The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- ...*
- ...*

The panel had regard to the NMC guidance on "Serious concerns which are more difficult to put right" (FtP-3a, dated 1 July 2022).

The panel was satisfied that in this case, your misconduct was remediable and was not fundamentally incompatible with remaining on the register. The panel carefully considered the gravity of the concerns brought forward and determined that a suspension from the register with a review is the appropriate course of action. Although the incident occurred on two shifts out of many worked over your nursing career, when looking at the overall context, the panel found that the inappropriate language used towards a vulnerable patient, in conjunction with the act of leaving a blind a deaf patient in wet/soiled bedding and expecting patients to wait for bed

changes, were serious departures from what would be expected of a nurse. The panel's utmost priority is to ensure the public is suitably protected and was of the view that you should address the outstanding concerns before being allowed back into the nursing profession.

The panel 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, a striking-off order would be unduly punitive in your case.

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:

- *Any relevant up to date testimonials (if possible, from a registered nurse) and/or feedback from employer(s) that specifically address improvements in addressing issues to do with your attitude towards patients and your professionalism.*
- *A reflective piece:*
 - *exploring the language expected of a professional nurse when interacting with patients and colleagues.*
 - *reflecting on what you have learned from these past experiences and outlining specific actions or approaches you would employ in the future.*
 - *reflecting on the impact of your conduct on patients, colleagues and the reputation of the profession.*
- *Relevant training addressing the concerns raised by the charges.'*

Decision and reasons on current impairment

The panel has considered carefully whether your 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 your own bundle. It has taken account of the submissions made by Ms Huggins on behalf of the NMC. She reminded the panel of the decision and reasons of the original substantive panel regarding your impairment at the time.

Ms Huggins referred the panel to your personal bundle put before it today and submitted that you have set out your position in relation to a number of the charges, and that you still deny some of the misconduct, particularly in relation to the words you used to Patient A. Ms Huggins submitted that it appears that you acknowledge that your tone of voice and accent may have had an impact on the communication between you and Patient A. She informed the panel that you have offered an apology and said that you did not intend to cause any form of distress. She further submitted that within your reflection, you have said that you are more aware of your body language and have a better understanding of the impact of poor communication.

Ms Huggins submitted that you have undertaken various workshops and training and are more aware of your ability to work in a team and seek support and assistance when required. She noted that you have adopted a softer and gentle tone when talking to patients, and that you have taken the time to reflect on how you should prioritise the needs of patients.

Ms Huggins submitted that the NMC do not advocate for any particular order, and that it is a matter of discretion for the panel to assess the insight before it, and the evidence regarding the strengthening of your practice.

The panel also heard evidence from you under affirmation, in which you said that from 2021 until 2023, you were working as a healthcare assistant (HCA) in a number of care homes to allow you the opportunity to reflect on the basic skills of communication, respect and teamwork. You told the panel that from January 2024, you have been working for Evri, delivering parcels and have not worked in a healthcare setting since 2023. You acknowledged that the way you were working previously could be seen as problematic, and that you have since taken steps to improve your ability to demonstrate respect and dignity towards patients and your colleagues. You told the panel that you will continue to undertake further training to strengthen your practice. You were also able to provide an indication of your future intentions to return to nursing practice. You explained that you wanted to consider a nursing role within the prison service.

The panel then heard submissions from Mr Buckley. He submitted that both your written and oral evidence demonstrate that you have gone back to the basics of caring for others, to allow you the opportunity to see situations from another perspective. He informed the panel that you acknowledged that there were some basic aspects of care that you had forgotten.

Mr Buckley informed the panel that you acknowledged that you needed to change certain aspects of your clinical practice, and that you have taken positive steps in terms of further training, and self-reflection. He further submitted that you understand that there is still progress to be made regarding the concerns.

Mr Buckley submitted that the 6-month period of suspension has protected the public and served the public interest and has allowed you to focus on what went wrong and what you must do in the future to ensure that your actions are not repeated.

For all the reasons above, Mr Buckley invited the panel to revoke the suspension 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 your fitness to practise remains impaired.

The panel noted that the original substantive panel found that you had developing insight. At this hearing the panel took into account that within your oral and written evidence you demonstrated an understanding of how your actions negatively impacted patients and your colleagues, and demonstrated an understanding of why what you did was wrong and apologised for your misconduct.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you have undertaken relevant training courses to develop your insight and strengthen your practice. However, the panel considered that you are not currently working in a patient facing role, and have not done so since 2023, therefore you have not had the opportunity to provide evidence to demonstrate that you can apply your learning and self-reflection into your clinical practice. As such, the panel determined that your fitness to practise remains impaired on the grounds of public protection alone.

The panel determined that the 6-month suspension order has satisfied the public interest in this case. It took into account the evidence that you provided today both orally and written to demonstrate your insight, as well as the steps you have taken to address the concerns and demonstrate strengthening of your practice. The panel also took into consideration the submissions made by Mr Buckley, on your behalf. For the reasons above, the panel determined that, in this case, a finding of continuing impairment on public interest grounds is not required.

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

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 not be proportionate to take no further action given the finding of current impairment on the grounds of public protection.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, 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 not be proportionate to impose a caution order.

The panel considered replacing the current suspension order with a conditions of practice order. Although your misconduct was serious, there has been evidence produced to show that you have developed insight and provided evidence of the steps taken to strengthen your practice.

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 in the meantime. The panel decided to impose a conditions of practice order for a period of 12 months to allow you sufficient time to obtain employment in a nursing role and incorporate your reflection and training into your clinical practice.

The panel considered imposing a further suspension order. However, considering the steps you have taken to strengthen your practice and your insight, and based on the evidence before it today, the panel felt it would be disproportionate to impose a further suspension order.

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.
2. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must consist of working on the same shift as, but not always directly observed, by a registered nurse.
3. You must work with your line manager, supervisor, and/or mentor to create a personal development plan (PDP). You must meet monthly with your line manager, supervisor, and/or mentor to discuss your progress and reflect on your practice. Your PDP must address the concerns in relation to, but not limited to:
 - a) Patient care
 - b) Communication
 - c) Teamwork

You must send your case officer a copy of your PDP before any NMC review hearing. This report must show your progress towards achieving the aims set out in your PDP.

4. 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.

5. 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.

6. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).
 - c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

7. 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.

8. 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 12 months.

This conditions of practice order will take effect upon the expiry of the current suspension order, namely the end of 25 July 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:

- Evidence of further reflection that may demonstrate how you have strengthened your practice and insight.
- Testimonials from your employer, including your line manager and colleagues to demonstrate your fitness to practise without restrictions.
- Your continued engagement with the NMC, and attendance at future review hearings.

This will be confirmed to you in writing.

That concludes this determination.