

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

**Substantive Order Review Hearing
Wednesday 27 November 2024**

Virtual Hearing

Name of Registrant: Farayi Louisa Mutasa

NMC PIN 20H1559E

Part(s) of the register: Registered nurse – sub part 1
Adult nursing, level 1 – 16 November 2000

Relevant Location: Lambeth

Type of case: Lack of competence

Panel members: Avril O'Meara (Chair, Lay member)
Alison Thomson (Registrant member)
Jan Bilton (Lay member)

Legal Assessor: Christopher McKay

Hearings Coordinator: Salima Begum

Nursing and Midwifery Council: Represented by Rebecca Osborne, Case Presenter

Ms Mutasa: Present and unrepresented

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: Conditions of practice order (18 months)

Decision and reasons on application for hearing to be held partly in private

The panel enquired whether you would prefer for the hearing to be partly heard in private, [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Osborne on behalf of the Nursing and Midwifery Council (NMC), indicated that she supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined that it was in the interests of justice to go into private session as and when matters concerning your personal and family life are discussed, to protect your privacy and confidentiality.

Decision and reasons on review of the substantive order

The panel decided to vary the current conditions of practice order.

This order will come into effect at the end of 7 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee (FtPC) panel on 8 November 2023.

The current order is due to expire at the end of 7 December 2024.

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:

1. *Between January to April 2021, on one or more occasions:*
 - a. *Did not offer to wash patient/s and/or did not carry out personal care to patients assigned to your care; **Proved***
 - b. *Did not complete a fluid balance chart as required for an unknown patient; **Proved***
 - c. *Failed to escalate that an unknown patient was retaining urine. **Proved***

2. *Between 30 November 2020 to 31 March 2021 you:*
 - a. ...
 - b. ...
 - c. *Did not administer the prescribed dosage of FFP and/or did not escalate that an unknown patient required additional FFP to be administered. **Proved***

3. *Between 30 November 2020 to 31 March 2021 you:*
 - a. *Did not answer a call bell and/or failed to assist an unknown patient move from their commode; **Proved***
 - b. *Did not change the bedding of an unknown patient. **Proved***

4. *Your actions at charges 2 and 3 failed to prioritise the care of your patients. **Proved***

5. *On 3 January 2021 you:*
 - a. *Failed to provide a clinical overview of the patients assigned to your care, when asked; **Proved***
 - b. *Failed to complete observations of the patients assigned to your care; **Proved***
 - c. *Failed to identify that unknown patient/s assigned to your care were in respiratory distress. **Proved***

6. **Charge withdrawn by the NMC**

7. **Charge withdrawn by the NMC**

8. **Charge withdrawn by the NMC**

9. **Charge withdrawn by the NMC**

10. **Charge withdrawn by the NMC**

11. On 24 March 2021 you:

a. Did not respond to a call bell from an unknown patient; **Proved by admission**

b. Delayed the administration of an enema to an unknown patient. **Proved**

12. On 29 March 2021, in regards to an unknown patient, failed to:

a. Ensure that a sliding scale was administered on an unknown patient. **Proved**

b. Escalate an unknown patient with a NEWS score over 7. **Proved**

13. Between January 2021 to April 2021, you endeavoured to administer a nebuliser to an unknown patient without a prescription. **Proved**

14. On 6 April 2021 you:

a. Did not carry out observations on an unknown patient; **Proved**

b. Did not monitor blood glucose on an unknown patient; **Proved**

c. Did not complete fluid balance chart/s and/or bedside charts for patients assigned to your care. **Proved**

15. ...'

The original panel determined the following with regard to impairment:

'The panel found that patients were put at risk, with some experiencing actual harm as a result of your lack of competence. Your lack of competence brought the

profession in to disrepute. The panel determined further that your inability to complete basic nursing tasks is a cause for concern, and although you have received training and supervision, you still present a lack of competence.

Regarding insight, the panel considered that, with the exception of one course, there is no evidence of learning or development in regard to the charges found proved against you. The panel determined that the concerns in this case can be addressed, but have not been, and therefore, the concerns are highly likely to be repeated.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your annual confirmation of mandatory training. The panel concluded that this does not provide it with reassurance that you would be practising any more safely now, than when the incident initially occurred. It noted that, while you have been practising as a carer and as a HCA since these events, and have positive testimonials about your performance in those capacities, you have not practised as a registered nurse and have not had the responsibilities of one. Further, the panel has not received any evidence of self-awareness and reflections from you, regarding the impact of your actions on your patients and colleagues.

The panel is of the view that there is a risk of repetition based on your lack of acknowledgement and lack of insight, and the absence of any strengthening of your practise, alongside a real risk of harm. The panel therefore 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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding proper professional standards for members of those professions.

The panel determined that, in this case, a finding of impairment on public interest grounds was required. A well-informed member of the public would expect a

registered nurse to be able to efficiently care for patients in a safe, kind, and adequate manner.

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

The original panel determined the following with regard to sanction:

'The panel determined that it would be possible to formulate appropriate and practicable conditions which would address the failings highlighted in this case. The panel accepted that you would be willing to comply with conditions of practice.

The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able 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 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 your case because you have not presented any deep-seated attitudinal concerns or caused great harm to any patient or colleague.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will meet the need to maintain public confidence in the profession and will declare to the public and the profession the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case, and will be adequate to protect the public:

'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 which must not be an agency.*
2. *Until you are deemed to be, and signed off as, competent in medicines management by a registered nurse at your place of work, you must be directly supervised when administering medication, by a registered nurse.*
3. *You must ensure that you are supervised by a line manager, or other supervisor nominated by your employer, any time you are working. Your supervision must consist of:*

Working at all times on the same shift as, but not always directly observed by, a registered nurse who is neither on probation nor preceptorship.

4. *You must have weekly meetings with your supervisor, to discuss the topics below. After the first 8 weeks with any new employer, this may be changed to monthly meetings if your supervisor deems it appropriate based on your performance. These meetings should consist of a review of the following:*

Your activities addressing patient care, including:

- *Personal care*
- *Observations of patients*
- *Escalations of concerns about patients in your care*
- *Planning and prioritising your responsibilities, and*
- *Medicines management.*

5. a) *You must keep a reflection record to cover the following subjects:*

Your activities addressing patient care, including:

- *Personal care*
- *Observations of patients*
- *Escalations of concerns about patients in your care*
- *Planning and rioritising (sic) your responsibilities, and*
- *Medicines management.*

b) You must have a monthly supervision meeting with your line manager or other supervisor nominated by your employer.

c) The above reflection record must be completed in preparation for this monthly supervision meeting. This must be signed by your supervisor each time to confirm that it has been discussed and that they agree that it is a fair reflection of your performance; or to add comments regarding your performance, if different.

d) You must send copies of all monthly reflection record to your case officer at 6 months and at 10 months after these conditions come into effect.

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 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.*

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 order is for a period of 12 months. The panel is satisfied that this is the appropriate and proportionate period in the circumstances of your case.

Before the order expires, a panel will hold a hearing to review the order and 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 vary any condition of it, it may replace the order with another order, and it may extend the order or make a different order.

Any future panel reviewing this case would be assisted by:

- *Your continued engagement and your attendance at any future hearing;*
- *Testimonials from any paid or unpaid work, including your current employer at the time this order is reviewed;*
- *Evidence of any ongoing training you are undertaking;*
- *A final reflective piece addressing the shortcomings identified in your case, and their impact on your patients and others and on what you have learned since.*

This will be confirmed to you in writing.'

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 the two certificates provided from yourself. It has taken account of the submissions made by Ms Osborne on behalf of the NMC and the evidence you gave under oath.

Ms Osborne outlined the background of the case and referred the panel to the relevant pages within the bundle outlining the key details for the panel's consideration. She told the

panel that you have kept the NMC informed of any prospective work opportunities, including notifying the NMC when an offer of employment was made and subsequently withdrawn.

She informed the panel [PRIVATE] during the last 12 months. She said that you have submitted evidence that you have completed mandatory training and training in complex care. Ms Osborne submitted that you have not provided a reflective piece in support of your case. She submitted that it is ultimately a matter for the panel to determine the appropriate course of action, as the NMC has no specific position on the matter.

You gave evidence under oath. You told the panel that since qualifying as a nurse in 2021, you have faced significant personal and professional challenges [PRIVATE]. You said these difficulties began after you raised concerns about bullying in the workplace, which were followed by allegations against you and a referral to the NMC.

You told the panel that during the last year, [PRIVATE] to engage consistently with the NMC and particularly the Royal College of Nursing (RCN) who were representing you.

You told the panel [PRIVATE]. You also said [PRIVATE] that this has been seen as by the RCN as a lack of engagement. However, you said that you very much want to participate in this case fully and you think you have.

You said despite your efforts to explain your situation to the RCN, your struggles have been perceived by the RCN as a lack of engagement, leading to the withdrawal of representation at today's hearing.

You told the panel you have been actively seeking employment and dedicating time to extensive job searches. [PRIVATE].

You said that as a newly qualified nurse with '*allegations*' against you, potential employers view you as unsafe, and this is complicating your efforts to find work in a clinical setting. You said that you have not provided testimonies because you have not been in employment in the last year. Prospective employers have told you that they would be willing to employ you once your conditions of practice order has been lifted. To improve

your future employment prospects, you said that you have completed a complex care course and maintained your mandatory training.

You told the panel, the lack of success in securing employment and the overwhelming nature of this process, [PRIVATE]. You told the panel you have struggled to focus on writing a reflective piece. Regarding the '*allegations*' against you, you told the panel that you are '*adamant these things didn't happen*'. You said these cumulative challenges have made it difficult for you to focus and move forward effectively.

When asked about your training course, you shared your experience of completing a Complex Care course (*dated 26 July 2024*), which you sourced and paid for yourself. The course involved in person training delivered to support workers and registered nurses. You told the panel, you found it practical and insightful. You completed a Mandatory and Statutory and Practical course in November 2024, which you also paid for, and found beneficial.

When asked about your future professional development, you told the panel, you plan to work with a mentor. You currently have two mentors, a matron and a senior practitioner in occupational health. You informed the panel about your applications for different roles. You said one offer of employment was subsequently withdrawn due to concerns about your conditions of practice order and the risk you may pose. You were asked if you had applied for healthcare assistant roles. You said you had, however, following disclosure of your conditions of practice order you weren't offered a position.

When the panel asked you about your future prospects, you expressed an interest in a clinical role to gain more experience and your aspirations to move into a management role.

[PRIVATE]. You concluded by stating that you will continue to seek employment opportunities, including a return to practice course, volunteer roles in a clinical setting, or any type of contract that is permitted within the conditions of practice order including NHS zero-hour contract roles if permitted, and you will seek guidance from your case officer at the NMC.

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 lacked insight.

The panel acknowledged your engagement and attendance at this hearing. The panel noted the significant personal challenges you have faced and recognised the impact these challenges have had on your ability to find work over the past 12 months. Despite your efforts to secure employment, the panel acknowledged the conditions of practice have made it difficult for you to obtain a role as a registered nurse or healthcare assistant.

However, the panel was concerned that you have not accepted the charges found proved or have not acknowledged your lack of competence. You did not provide any reflective piece to the panel, and during your oral evidence you did not demonstrate any insight into the impact your lack of competence has had on patients, colleagues and the nursing profession. Although you have completed some recent training, the panel is not persuaded that you have taken sufficient steps to strengthen your practice.

The original panel determined that you were liable to repeat matters of the kind found proved. Today's panel has taken into account, your two training certificates, your oral submissions, and submissions from Ms Osborne. In the circumstances, the panel considers that there continues to be a significant risk of repetition of your previous failings. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.

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 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 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 a caution order would be inappropriate in view of the lack of competence 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 further conditions of practice order on your 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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you have been unable to comply with the conditions of practice order because you have been unable to secure employment as a registered nurse. The panel acknowledged your positive engagement and attendance at today's hearing and evidence of training you have provided. Despite the absence of representation from the RCN at the hearing, you chose

to represent yourself. The panel commends your commitment and desire to return to nursing.

The panel also acknowledges the challenges you have faced since the decision of the original panel last year. The panel accepts that this has been a particularly challenging time for you. Despite these difficulties, you have made efforts to secure employment both as a registered nurse and healthcare assistant. You told the panel, the combination of your conditions of practice order and being a newly qualified nurse has made it challenging to obtain a registered nursing role or even a healthcare assistant position. The panel recognises your continued interest in nursing and your active pursuit of supportive roles, whether paid or unpaid, to further your career.

The panel was of the view that a varied conditions of practice order is sufficient to protect patients and satisfy the public interest. The panel has varied condition one to assist you in securing employment. The panel is satisfied that this variation is appropriate and proportionate while still ensuring public protection.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case. Given your difficult personal circumstances and the challenges you faced in securing employment as a registered nurse, the panel considers that an extension of the order is the appropriate and proportionate response in this case.

The panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 18 months. The panel considered that this period would you allow you sufficient time [PRIVATE] to further allow you to secure employment and work towards demonstrating you are fit to practice unrestricted. The order will come into effect on the expiry of the current order, namely at the end of 7 December 2024. It decided to impose the following conditions which it considered 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 limit your nursing practice to one substantive employer which can be an agency. If you work for an agency, you are only permitted to work as a registered nurse for one health and social care provider.
2. Until you are deemed to be, and signed off as, competent in medicines management by a registered nurse at your place of work, you must be directly supervised when administering medication, by a registered nurse.
3. You must ensure that you are supervised by a line manager, or other supervisor nominated by your employer, any time you are working.

Your supervision must consist of:

Working at all times on the same shift as, but not always directly observed by a registered nurse who is neither on probation nor preceptorship.

4. You must have weekly meetings with your supervisor, to discuss the topics below. After the first 8 weeks with any new employer, this may be changed to monthly meetings if your supervisor deems it appropriate based on your performance. These meetings should consist of a review of the following:

Your activities addressing patient care, including:

- Personal care
- Observations of patients
- Escalations of concerns about patients in your care
- Planning and prioritising your responsibilities, and
- Medicines management.

5. a) You must keep a reflection record to cover the following subjects:

Your activities addressing patient care, including:

- Personal care
- Observations of patients
- Escalations of concerns about patients in your care
- Planning and prioritising your responsibilities, and
- Medicines management.

b) You must have a monthly supervision meeting with your line manager or other supervisor nominated by your employer.

c) The above reflection record must be completed in preparation for this monthly supervision meeting. This must be signed by your supervisor each time to confirm that it has been discussed and that they agree that it is a fair reflection of your performance; or to add comments regarding your performance, if different.

d) You must send copies of all monthly reflection record to your case officer at 6 months and at 10 months after these conditions come into effect.

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 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.
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 order is for a period of 18 months. The panel is satisfied that this is the appropriate and proportionate period in the circumstances of your case.

These conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 7 December 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:

- Your continued engagement and your attendance at any future hearing;
- Testimonials from any paid or unpaid work, including your current employer at the time this order is reviewed;
- Evidence of any ongoing training you are undertaking;
- A final reflective piece addressing the shortcomings identified in your case, and their impact on your patients, colleagues and the nursing profession and on what you have learned since.

This will be confirmed to you in writing.

That concludes this determination.