

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

Substantive Order Review Hearing

Monday, 4 November 2024

Friday, 29 November 2024

Virtual Hearing

Name of Registrant: **Eruore Augustina Obibi**

NMC PIN 94I0385E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health Nursing – Level 1 - March 1998

Relevant Location: Belfast

Type of case: Misconduct

Panel members: Adrian Smith (Chair, Lay member)
Janet Williams (Registrant member)
Kamaljit Sandhu (Lay member)

Legal Assessor: Charles Conway (4 November 2024)
Angus Macpherson (29 November 2024)

Hearings Coordinator: Antonnea Johnson (4 November 2024)
Bethany Seed (29 November 2024)

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case Presenter (4 November 2024)
Represented by Alex Radley (29 November 2024)

Mrs Obibi: Not present and represented by Rev. Paul S Burns BTh (Hons.) Dip Theo (4 November 2024)
Present and represented as above (29 November 2024)

Order being reviewed: Suspension order (9 months)

Fitness to practise: Impaired

Outcome: **Suspension order (9 months) to come into effect on 12 December 2024 in accordance with Article 30 (1)**

At the outset of the hearing, the panel agreed to permit Reverend Burns, who is instructed by Adullam Christian Fellowship, King's Church Belfast (ACF), to represent Mrs Obibi during this hearing. He is not a qualified lawyer, but he was instructed by her to look after her interests.

The hearing took place over two days. The panel noted that Mrs Obibi did not attend on day one of the hearing owing to [PRIVATE]. On day two of the hearing, Mrs Obibi did attend and remained represented by Reverend Burns. The panel also received further documentation on day two of the hearing which it considered in conjunction with the materials before it on day one.

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

Mr Kabasinskas made a request that this case be held in private on the basis that proper exploration of Mrs Obibi's case involves references to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Rev. Burns indicated that he supported the application to the extent that any reference to [PRIVATE] should be heard in private.

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 to go into private session when [PRIVATE].

Decision and reasons on application for hearing to be adjourned

The panel next considered whether it should adjourn the hearing under Rule 32.

Rev. Burns explained [PRIVATE].

Mr Kabasinkas, on behalf of the NMC, submitted that the current order expires on 12 December 2024 and therefore may not be relisted before the expiry of the current order on account of Rules 11 of the 2004 Rules. He acknowledged that if the panel granted the adjournment, Mrs Obibi could waive her right to receive a 28-day notice of the hearing. However, Mr Kabasinkas submitted that if the hearing today did not proceed, the risk remains that, upon expiry of the current order, Mrs Obibi would be free to return to practise unrestricted.

Mr Kabasinkas submitted that Mrs Obibi has been aware of the hearing since 4 October 2024 and has not communicated with her case officer since then. He submitted that an adjournment would mean that the panel would not be in a position to make a finding on impairment and therefore there would be no consideration as to whether she could return to unrestricted practice. Moreover, he submitted that the current suspension order should be reviewed before its expiration.

Mr Kabasinkas further submitted that despite the NMC's sympathetic position towards Mrs Obibi's current circumstances, a short-term adjournment would not be beneficial to Mrs Obibi or in the public interest.

The panel heard and accepted the advice of the legal assessor. The legal assessor referred to the guidance contained in Rule 32 and to the NMC Guidance CMT-11, *When we postpone or adjourn hearings*.

The panel determined not to grant the application for an adjournment. It took into account the submissions made by Rev. Burns and Mr Kabasinkas and the advice of the legal assessor.

The panel balanced Mrs Obibi's interest in adjourning the hearing with its primary duty, which is to protect the public and to act in the public interest. [PRIVATE]. The panel

determined that due to the date of expiry of the current order, it was important that the case be heard expeditiously. It noted that it was highly unlikely that a review could take place within the five weeks before the expiry of the current order. Therefore, the review needed to take place today.

For the reasons set out above, the panel did not accept Rev. Burns' application to adjourn the hearing.

Decision and reasons on review of the substantive order

The panel decided to impose a further suspension order of nine months.

This order will come into effect at the end of 12 December 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is a review of a substantive suspension order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 12 February 2024.

The current order is due to expire at the end of 12 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:

'Charge 1

"On 20 March 2022, failed to preserve patient safety in that you left the door to the Unit unlocked". [PROVED]

Charge 2)

"On 28 April 2022, failed to provide care in accordance with Patient A's care plan and/or risk assessment in that you failed to undertake adequately, or at all, 1:1 observation for Patient A". [PROVED]

Charge 3)

“On a date between 28 April and 2 May 2022, you failed to preserve patient safety in that you left keys to the Unit unattended”. [PROVED]

Charge 4)

“On 5 May 2022 you behaved inappropriately towards Patient A in that you:

- a) put your bottom towards Patient A and/or slapped your bottom and said “slap it, slap my arse” or words to that effect*
- b) said “kiss my arse” or words to that effect*
- c) put your index and middle finger up to the ceiling and said “fucked in the arse” or words to that effect”. [PROVED]*

Charge 5)

“Your actions at charge 4(a) and/or 4(b) and/or 4(c) breached professional boundaries.” [PROVED]’

The original panel determined the following with regard to impairment:

‘Regarding insight, the panel considered that within Ms Obibi’s reflective statement she failed to demonstrate an understanding of how her actions put the patients at a risk of harm or demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel determined that Ms Obibi continuously apportioned blame to colleagues and lacked insight into her actions and the risks that patients were exposed too. Further, there was no evidence in Ms Obibi’s reflective pieces of any remorse for her actions.

The panel noted that it had no evidence of Ms Obibi strengthening her practice before it, namely evidence of training specific to professional boundaries, managing risk and safety and security in a clinical setting such as Beechcroft. Further, the panel did not have any testimonials from employers or work colleagues, in any setting, clinical or otherwise.

The panel is of the view that there is a high risk of repetition based on the contents of Ms Obibi’s reflective statement, the ongoing lack of insight and deflection and the absence of any evidence that Ms Obibi has strengthened her practice. The panel

therefore determined 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 determined that a finding of impairment on public interest grounds is required because the seriousness of Ms Obibi's actions and the potential consequences that could have occurred. The panel determined that a reasonably informed member of the public would be shocked by the charges found proved. Therefore, the public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel also finds Ms Obibi's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'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 Ms Obibi'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 Ms Obibi'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 placing conditions of practice on Ms Obibi'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:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*

The panel took into account that Ms Obibi has not provided any evidence to suggest that she has a willingness to address the issues or retrain. However, the panel is aware that Ms Obibi has recently stated that she does not want to be a nurse and would like to focus on personal aspect of her life. The panel concluded that Ms Obibi has no intention of returning to nursing and she has not demonstrated any insight into improving her nursing practice. Further, Ms Obibi has only demonstrated limited engagement with the NMC.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case and for the above reasons.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that 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 panel was satisfied that in this case, the misconduct was not fundamentally

incompatible with remaining on the register. The panel determined that a suspension order is appropriate in this circumstance as it will give Ms Obibi the time to reflect on the issues raised, her career moving forward and undertake continuing professional development/ training. The panel were of the view that Ms Obibi's reflective statement was unsatisfactory and attempts to minimise her failings, deflects blame on others and demonstrates a lack of regard to the risks posed to the vulnerable patients in her care.

The panel went on to consider whether a striking-off order would be appropriate but, taking account of all the information before it, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Ms Obibi's case to impose a striking-off order.

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

The panel noted the hardship such an order will inevitably cause Ms Obibi. However, this is outweighed by the public interest in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

The panel determined that a suspension order for a period of 9 months with review, was appropriate in this case to mark the seriousness of the misconduct and allow Ms Obibi time to reflect and undertake training in the areas identified.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Obibi'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 ability 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 has had regard to all of the documentation before it, including the NMC bundle, and submissions from Rev. Burns on behalf of Mrs Obibi together with the additional documentation submitted on day two of the hearing. It has taken account of the submissions made by Mr Kabasinkas, on behalf of the NMC. He submitted that Mrs Obibi's fitness to practice remains impaired on public interest grounds.

In his submissions on day one of this hearing, Mr Kabasinkas submitted that Mrs Obibi has not offered any updated material to indicate that she has set about a process of remediation or development of insight. These might have included testimonials from her employers or colleagues, references, evidence of completed training or evidence of supportive materials relating to [PRIVATE]. Given the absence of this information, Mr Kabasinkas submitted that there was an absence of evidence of insight and no demonstration of learning.

Mr Kabasinkas invited the panel to consider the case of *Abrahaem v GMC* [2008] EWHC 183, paragraph 23 which states:

"in practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments."

Mr Kabasinkas submitted that Mrs Obibi had reduced engagement with the NMC which was limited to “a couple of emails and a telephone call” logged by her Case Officer on 18 April 2024, which stated:

‘...We went through all off the reccommendations [sic] that the panel made at the substantive hearing. The registrant said she understood what she had to do however was unsure about what training courses she can complete before her review. I explained that she is welcome to do any training courses, however that it may be wise to complete ones that related to the facts that were proved. The registrant has said thats [sic] has undertaking a training course already and has another booked in, which will take place in a few weeks time.

The registrant went on to ask what jobs she was allowed to apply for as she wanted to cooperate and follow her current suspension order. The registrant [sic] said she was confused how she can get a testimonial from a manager when she was not allowed to work as a nurse. I explained that the regisrant [sic] is free to apply for any job that does not require an NMC pin number, which includes [sic] jobs within the healthcare setting. The Registrant said that she understood.’

Mr Kabasinkas submitted [PRIVATE] but maintains that she has provided no evidence relating to either matter at the current time.

The panel also had regard to Rev. Burns’ submissions. He acknowledged that on account of [PRIVATE], Mrs Obibi has not provided the panel with any evidence relating to her remedial efforts to address the charges found proved. Rev. Burns explained that this was in part due to [PRIVATE]. Rev. Burns agreed that Mrs Obibi’s fitness to practice was still impaired and was likely to remain so until the contemporaneous matters have concluded.

The panel heard and accepted the advice of the legal assessor.

The panel had regard to the original panel’s finding of impairment and considered whether Mrs Obibi has taken steps to address the concerns and demonstrate that she was no longer currently impaired. In considering current impairment, the panel was mindful that the persuasive burden rests with Mrs Obibi to demonstrate that she is not currently

impaired. It was also mindful of the need to maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel noted that the original panel found that Mrs Obibi had insufficient insight. At this hearing the panel found that Mrs Obibi's fitness to practise remains impaired.

At this hearing the panel considered the previous reviewing panel's guidance to Mrs Obibi which included the following recommended steps for today's hearing:

- *'Attendance at future hearings and engagement with the process*
- *Information regarding Mrs Obibi's intentions about her nursing career*
- *Information about the type of work Ms Obibi has undertaken during her suspension*
- *Evidence of training courses completed*
- *Testimonials from current employer*
- *Reflective piece addressing the issues the panel have identified'*

In its consideration of whether Mrs Obibi has taken steps to strengthen her practice, the panel took into account the concerns of the previous panel and their recommendations of what may assist a reviewing panel.

In the course of its deliberations, the panel received further evidence provided by Mrs Obibi in respect of [PRIVATE]. The panel considered that the documents received were relevant to Mrs Obibi's non-attendance on 4 November 2024 when this case was first considered. It noted [PRIVATE] that the new information did not have much relevance to the question of Mrs Obibi's fitness to practise.

The panel were pleased that Mrs Obibi had prepared a reflective piece and provided training certificates. It noted that the reflective statement was demonstrative of some insight but that there were gaps in Mrs Obibi's understanding of the impact of her actions on patients, the public and on the profession. It noted that Mrs Obibi had not fully demonstrated remorse or accountability for her actions, but it acknowledged the training she claims she had undertaken. However, the panel was concerned to notice that there were only two certificates (relating to professional boundaries and fitness to practise in

April 2024 and November 2024 respectively). The panel would have liked to have seen further evidence of reflection into her actions, and evidence of further training that is appropriate to the misconduct encapsulated in the charges found proved such as mental health communication with children, health and safety at work and risk assessments.

The panel reviewed this information and through the legal assessor, invited Rev Burns to make further submissions on Mrs Obibi's current fitness to practise and current impairment. Rev Burns informed the panel of Mrs Obibi's position:

"Given [PRIVATE], in relation to her situation at present Ms Obibi has advised me to inform the Panel that she does not wish to place/proceed with any further admissions [sic] to the Panel at this time, and thanks them for their consideration [sic] to her at this time.

[PRIVATE]."

Upon clarification, Rev Burns confirmed the following:

"I can confirm admissions can be used as submissions. Apologies at not being Legal in using different wording to the Panel."

The panel also invited Mr Radley, who represented the NMC on day two of the hearing, to make further submissions. He submitted that:

"I will not be asking any questions of this registrants papers."

In light of the new information, the panel considered whether Mrs Obibi has taken sufficient steps to address her misconduct and whether she has shown satisfactory degree of insight in terms of how her conduct will have affected patients, colleagues and the wider profession. Although she has taken initial steps in this regard, the panel was not satisfied that she has remediated her behaviour or demonstrated sufficient insight. The panel determined that Mrs Obibi showed a lack of ownership of her actions. The panel noted that Mrs Obibi had not fully followed the recommendations of the previous panel and that her reflective account had the appearance of being perfunctory.

The panel recognised that Mrs Obibi is likely to need a reasonable amount of time to [PRIVATE] so that she can focus on strengthening her practice by following up on the recommended steps. These include undertaking and evidencing further relevant training and providing a further reflective piece addressing the issues raised by the panel.

Today's panel was of the view that the limited evidence from Mrs Obibi was insufficient to give it confidence that Mrs Obibi will not repeat matters of the kind found proved. 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 Mrs Obibi's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Obibi'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 its finding of current impairment. 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 Mrs Obibi'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 Obibi'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 on Mrs Obibi'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 considered the imposition of a further period of suspension. [PRIVATE]. It was therefore of the view that imposing a further suspension order would allow Mrs Obibi further time to fully reflect on patient care in relation to her previous misconduct and gain a full understanding of how the misconduct of one nurse can impact upon the nursing

profession as a whole. The panel concluded that a further suspension order would be the appropriate and proportionate response and would afford Mrs Obibi adequate time to further develop her insight and take steps to strengthen her practice. The panel considered imposing a striking-off order but determined that this would be disproportionate and punitive given the circumstances.

The panel determined that a suspension order is the appropriate sanction as it will continue to protect the public and satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for a period of nine months.

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

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:

- Attendance at future hearings and continued engagement with the process;
- Information about the type of work Mrs Obibi has undertaken during her suspension;
- Evidence of training courses completed relevant to the charges found proved;
- Testimonials from current and previous employers, either in a healthcare setting or voluntary;
- Reflective piece, preferably using a reflective model (such as Gibbs'), addressing the issues the panel has identified such as remorse and how her actions impacted on others and the wider profession.

This will be confirmed to Mrs Obibi in writing.

That concludes this determination.