

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

**Substantive Order Review Hearing
Thursday 19 September 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Maura Chinyere Anyassor

NMC PIN 89A01170

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nurse – Level 1, 26 January 1989

Relevant Location: Tower Hamlets

Type of case: Misconduct

Panel members: Carolyn Tetlow (Chair, Lay member)
Katrina Maclaine (Registrant member)
Vanessa Bailey (Registrant member)

Legal Assessor: Richard Ferry-Swainson

Hearings Coordinator: Sophie Cubillo-Barsi

Nursing and Midwifery Council: Represented by Rowena Wisniewska, Case Present

Mrs Anyassor: 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 expiry of the current order 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 Anyassor was not in attendance and that the Notice of Hearing had been sent to Mrs Anyassor's registered email address by secure email on 15 August 2024.

Ms Wisniewska, 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, date and that she would be able to attend virtually, including instructions on how to join and, amongst other things, information about Mrs Anyassor's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence. Additionally, on 18 September 2024, Mrs Anyassor was informed by email that she had the option to attend today's hearing in person.

In the light of all of the information available, the panel was satisfied that Mrs Anyassor 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 Anyassor

The panel next considered whether it should proceed in the absence of Mrs Anyassor. The panel had regard to Rule 21 and heard the submissions of Ms Wisniewska who informed the panel that the Hearings Coordinator had attempted to make contact with Mrs Anyassor, by way of email on 18 September 2024, but that no response was received.

Ms Wisniewska asked the panel to proceed in Mrs Anyassor's absence. She submitted that there is a public interest in the expeditious disposal of today's case and that there is no reason to suppose that adjourning today's hearing would secure Mrs Anyassor's

attendance at a future date. Ms Wisniewska reminded the panel that Mrs Anyassor has not engaged with the NMC and did not attend the two previous substantive hearings.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Anyassor. In reaching this decision, the panel has considered the submissions of Ms Wisniewska. It has had particular regard to 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 Anyassor;
- Apart from answering one phone call, Mrs Anyassor has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

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

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 29 October 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the second review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 29 September 2023. This order was reviewed and extended for a further six months on 19 March 2024.

The current order is due to expire at the end of 29 October 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. *' On 21 January 2020 during a cervical smear test procedure on Patient A you:
(a) Failed to stop the procedure when instructed by Patient A to stop;
(b) Held Patient A down to complete the procedure despite being told to stop.*

2. *You failed to treat Patient A with dignity and/or respect in that you:
(a) Failed to introduce yourself and/or greet Patient A on their arrival;
(b) Failed to explain the procedure to Patient A before starting;
(c) Failed to give Patient A privacy whilst they undressed;
(d) Failed to give Patient A privacy whilst they dressed;*

3. *Failed to communicate effectively and/or compassionately with Patient A in that you:

(a) Continued with the smear test procedure despite Patient A being distressed/and or crying;

(b) Did not offer Patient A support during and/or after the procedure.'*

The first reviewing panel, on 19 March 2024, determined the following with regard to impairment:

'The panel bore in mind the previous panel's determination that the registrant lacked insight into her failings and therefore was liable to repeat her misconduct in the future, necessitating a finding of impairment on public protection grounds. Furthermore, the panel was aware that due to the severity of the misconduct found,

the previous panel had deemed a finding of impairment necessary on the grounds of public interest.

In determining current impairment, the panel considered the following questions:

- *What evidence of remediation or strengthened practice has the registrant presented to the panel and of what quality is it?*
- *Has Mrs Anyassor's insight improved or got worse since last hearing?*
- *Has Mrs Anyassor taken effective steps to maintain her knowledge or skills relevant to practice as a nurse?*
- *Has the registrant demonstrated a record of safe practice since last hearing?*
- *Have outstanding concerns been remediated?*

The panel noted that the registrant has not provided any evidence to the panel to demonstrate any strengthened practice, progress on developing insight, steps to update her knowledge and skills, or demonstrate any record of subsequently safe practice. Consequently, the panel determined that the outstanding concerns have not been remediated and therefore a risk to the public remains.

The panel concluded its determination on impairment by posing the next question:

- *Can the nurse practice kindly, safely and effectively?*

The panel determined that in light of no evidence to the contrary following the serious misconduct the previous panel had found, that the registrant was currently impaired on both public protection and public interest grounds.'

The first reviewing panel, on 19 March 2024, determined the following with regard to sanction:

'The panel considered the following an aggravating feature of the case:

- *Despite serious findings of misconduct and impairment, Mrs Anyassor has taken no steps towards remediation as per the previous panel's recommendations*

The panel did not identify any mitigation features of the case.

The panel next went to consider 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 and public interest issues identified, an order that does not restrict Mrs Anyassor'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 Anyassor'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 Anyassor'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 considered that although it might have been possible to formulate appropriate conditions in this case, it concluded that this would not be practical given the absence of any evidence to suggest that Mrs Anyassor would engage with a conditions of practice order or respond positively to retraining.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Anyassor further time to fully reflect

on her previous failings. It was of the view that a suspension order would allow Mrs Anyassor a future opportunity to reflect on her previous failings, consider whether she wishes to maintain her registration and, if she so chooses, take steps towards developing insight and developing her practice. The panel considered that a further six months suspension order would be sufficient for this purpose and would also afford Mrs Anyassor an opportunity to approach any past or current health professionals for testimonials.

Accordingly, the panel determined to impose a suspension order for the period of six months.

The panel gave serious consideration to the imposition of a strike off order, but considered that in view of Mrs Anyassor's misconduct being of a single instance, that this may be an unduly punitive sanction at this time. The panel remained concerned that no evidence of developing insight or strengthened practice had been forthcoming from Mrs Anyassor to this point.

Nevertheless, the panel did not consider the stage has yet been reached which Mrs Anyassor should be given a further opportunity to develop insight or remediate. [sic] Accordingly, the panel did not consider that it was be appropriate to strike off at this time. The panel were of the view that a future reviewing panel would have the option of imposing a striking off order should Mrs Anyassor continue to not provide any evidence of meaningful remorse, reflection, or insight.

This suspension order will take effect upon the expiry of the current suspension order, namely the 30 April 2024 in accordance with Article 30.

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:

- *Mrs Anyassor's engagement with the NMC and attendance at future hearings*
- *Clear indication of future career intentions*
- *A reflective statement demonstrating insight into the misconduct and the effect it had on Patient A, colleagues, and the wider profession.*
- *Testimonials from any paid or voluntary work Mrs Anyassor may be undertaking.*
- *Evidence of self-directed learning or courses attended addressing the misconduct found in this case, in respect of communication, respect, dignity, consent and restraint.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Anyassor'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. It also had regard to the submissions made by Ms Wisniewska, who provided the panel with a background to Mrs Anyassor's case.

Ms Wisniewska told the panel that Mrs Anyassor has failed to engage with the regulatory proceedings, despite the recommendations made by previous substantive panels to do so. Ms Wisniewska stated that Mrs Anyassor has failed to provide any evidence of her insight and/or strengthening of practice, despite the last reviewing panel stating the following:

'The panel gave serious consideration to the imposition of a strike off order, but considered that in view of Mrs Anyassor's misconduct being of a single instance, that this may be an unduly punitive sanction at this time. The panel remained concerned that no evidence of developing insight or strengthened practice had been forthcoming from Mrs Anyassor to this point.'

...

Any future panel reviewing this case would be assisted by:

- *Mrs Anyassor's engagement with the NMC and attendance at future hearings*
- *Clear indication of future career intentions*
- *A reflective statement demonstrating insight into the misconduct and the effect it had on Patient A, colleagues, and the wider profession.*
- *Testimonials from any paid or voluntary work Mrs Anyassor may be undertaking.*
- *Evidence of self-directed learning or courses attended addressing the misconduct found in this case, in respect of communication, respect, dignity, consent and restraint.'*

Given Mrs Anyassor's ongoing failure to adhere to the recommendations made by the previous substantive panels, Ms Wisniewska submitted that Mrs Anyassor remains impaired on both public protection and public interest grounds. Ms Wisniewska reminded the panel that Mrs Anyassor's misconduct placed a patient at an unwarranted risk of harm, including actual psychological harm and that, given the lack of insight and remediation, there was a real risk of her repeating such behaviour.

Ms Wisniewska submitted that a further period of suspension may be considered an appropriate sanction at this time. However, she highlighted the fact that the imposition of a striking off order is an option available to the panel today and recommended this course of action.

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 Anyassor's fitness to practise remains impaired.

The panel did not have any evidence before it to suggest that Mrs Anyassor had complied with the recommendations made by the previous reviewing panel. Despite the misconduct found proved being capable of remediation, today's panel had no information before it to evidence that Mrs Anyassor has taken any steps to begin strengthening her practice. Additionally, Mrs Anyassor has failed to demonstrate an understanding of how her misconduct impacted upon the patient in her care and the reputation of the nursing profession. To the contrary, Mrs Anyassor has ceased communicating with the NMC.

In the complete absence of any insight, remorse and/or remediation on behalf of Mrs Anyassor, the panel determined that she remains liable to 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. To do otherwise, would undermine the public confidence in the profession, given the seriousness of the misconduct found proved.

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

Decision and reasons on sanction

Having found Mrs Anyassor's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection and public interest issues identified, an order that does not restrict Mrs Anyassor'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 Anyassor'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 Anyassor'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 considered that although it might have been possible to formulate appropriate conditions in this case, it concluded that this would not now be practical given the absence of any evidence to suggest that Mrs Anyassor would engage with a conditions of practice order or respond positively to retraining.

The panel next considered imposing a further suspension order and in doing so it considered the case of *Unozor v Nursing and Midwifery Council* 25 February 2016, in which it was held that a panel is entitled to conclude that it is not appropriate to continuously extend a suspension order in the hope that a registrant might eventually comply with suggestions made.

The panel noted its findings that Mrs Anyassor has failed to demonstrate insight into and/or remediation of her failings, despite having ample opportunity to do so. The panel was of the view that considerable evidence would be required to show that Mrs Anyassor no longer posed a risk to the public. It determined that a further period of suspension would not serve any useful purpose in all of the circumstances. Additionally, there is

nothing to suggest that a further period of suspension is likely to result in Mrs Anyassor's reengagement with the NMC, her regulator. The panel determined that it was necessary to take action to prevent Mrs Anyassor from putting patients at an unwarranted risk of harm and concluded that the time had now been reached where the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 29 October 2024 in accordance with Article 30(1).

This decision will be confirmed to Mrs Anyassor in writing.

That concludes this determination.