

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

**Substantive Hearing
Tuesday, 21 January 2025**

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

Name of registrant:	Edmore Manjengwa
NMC PIN:	18G5567E
Part(s) of the register:	Nurses part of the register Sub part 1 RNLN: Learning disabilities nurse, level 1 (22 October 2018)
Relevant Location:	Nottingham
Type of case:	Conviction
Panel members:	Deborah Jones (Chair, Lay member) Katrina Maclaine (Registrant member) Jayanti Durai (Lay member)
Legal Assessor:	Simon Walsh
Hearings Coordinator:	Petra Bernard
Nursing and Midwifery Council:	Represented by Grace Khaile, Case Presenter
Mr Manjengwa:	Present and not represented
Facts proved:	All Charges
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking off order
Interim order:	Interim suspension order (18 months)

Details of charge

That you a registered nurse;

- 1) On 14 September 2023 at Nottingham Crown Court were convicted of an offence of rape against Person A, a woman aged over 16 by penetrating her vagina without consent or reasonably believing that Person A consented. Contrary to section 1(1) of the Sexual Offences Act 2003.

- 2) On 14 September 2023 at Nottingham Crown Court were convicted of committing an act/series of acts with intent to pervert the course of justice.

- 3) On 14 September 2023 at Nottingham Crown Court were convicted of sexually assaulting Person B, a woman aged over 16 by touching her in a sexual manner without consent, or reasonably believing that Person B consented. Contrary to section 3 of the Sexual Offences Act 2003.

- 4) On 14 September 2023 at Nottingham Crown Court were convicted of rape against Person B, a woman aged over 16 by penetrating her vagina without consent or reasonably believing that Person B consented. Contrary to section 1(1) of the Sexual Offences At 2003.

- 5) On 14 September 2023 at Nottingham Crown Court were convicted of sexually assaulting Person B a woman aged over 16 by penetrating her in a sexual manner without consent, or reasonably believing that Person B consented. Contrary to section 2 of the Sexual Offences Act 2003.

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

Background

The charges arose whilst you were employed as a registered nurse by Nottinghamshire Healthcare NHS Foundation Trust (the Trust).

You were referred to the Nursing and Midwifery Council (NMC) on 16 December 2020 by the Trust. The Trust advised you that you were being investigated by the police for an allegation of rape and sexual assault. However, the police decided that no further action was to be taken on that occasion.

On 2 September 2021 the Trust informed the NMC that a second separate allegation of rape had been made you, in relation to a colleague. On 11 March 2022 you were charged by the police with rape. As a result of the second allegation, the first allegation was reopened and investigated.

At Nottingham Crown Court on 20 October 2023, you were sentenced to sixteen years imprisonment made up as follows: eight years consecutive on each of the rape counts; two years concurrent on count 5; nine months concurrent on count 3; twelve months concurrent for perverting the course of justice. In addition, you were placed on the Sex Offenders Register for life and an indefinite restraining order has been imposed.

Regulatory Concern

Conviction – in that you were convicted of the following offences:

- Rape
- Commit an act/series of acts with the intent to pervert the course of justice
- Sexual assault

Submissions

Ms Khaile on behalf of the Nursing and Midwifery Council (NMC) provided the panel with a detailed background and chronology of the case.

In response, you said that you disagree with the underlying conviction, and that you are in the process of trying to lodge an appeal of your conviction. You said that there is pending paperwork from your previous legal team without which you cannot proceed with the appeal.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence before it in this case, together with the submissions made by Ms Khaile on behalf of the NMC and what you said about the matter.

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

The charges concern your conviction and, having been provided with a copy of the certificate of conviction dated 29 December 2023, the panel finds that the facts are found proved in accordance with Rule 31(2).

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

Submissions on impairment

Ms Khaile addressed the panel on the issue of impairment and reminded the panel to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. She made reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* [2008] EWHC 581 (Admin).

Ms Khaile submitted that at the time of your offences, you were a registered nurse. She submitted that you raped Person A in her home on 26 July 2020 and you raped and sexually assault Person B in her own home on 13 September 2020. She submitted that you were someone who they trusted as an NHS professional. You also committed an offence of perverting the course of justice and your actions were dishonest in getting a colleague to provide a false alibi.

She submitted that your lack of insight and remorse, and the profound unacceptability of your behaviour, are indicative of deep-seated attitudinal problems. Ms Khaile submitted that there is a risk of repetition. She submitted that due to the extremely serious nature of the concerns, there is no training capable of protecting the public in your case.

Notwithstanding that you will be unable to practise as a nurse for a considerable time because of your sixteen-year custodial sentence, the harm you caused is so egregious, that a finding of impairment is necessary for the protection of the public.

In terms of the public interest, she submitted that members of the public would be shocked and dismayed to learn that a finding of impairment had not been made in the circumstances. Ms Khaile submitted that there are types of concern that are so serious that a finding of impairment is required to uphold proper professional standards and conduct or to maintain public confidence in the profession. For the reasons set out, she submitted that a finding of impairment is also required in the public interest.

You told the panel that you thought that your trial was unfair and that you intend to appeal. Nevertheless, you understand the process of this hearing at this stage.

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC's Fitness to Practise Library, updated on 27 March 2023, which states:

‘The question that will help decide whether a professional’s fitness to practise is impaired is: “Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”

If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not 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. To justify that trust, nurses must act with integrity. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

Your behaviour has breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to your conviction to be extremely serious.

In relation to any risk you may pose to public safety as a registered nurse, the panel took into account that you are not going to be working as a nurse in the foreseeable future as you are subject to a lengthy custodial sentence.

The panel bore in mind that the overarching objective of the NMC is the protection of the public. This is achieved by protecting, promoting and maintaining the health, safety and well-being of the public and patients, as well as promoting and maintaining public confidence in the nursing and midwifery professions and promoting and maintaining proper professional standards and conduct for members of those professions.

The panel took account of your conviction, for what the NMC defines as specified offences relating to sexual misconduct. It also noted the restraining order against you and that you have been placed on the Sex Offenders Register for life. The panel determined that a member of the public would be shocked if a finding of current impairment was not made in this case. The panel determined that, in this case, a finding of impairment on public interest grounds was required.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC.

Submissions on sanction

Ms Khaile outlined what the NMC consider to be the aggravating features of this case. She submitted that there are no mitigating features.

Ms Khaile submitted that to take no further action would not be appropriate nor proportionate in the circumstances of this case, especially taking into account it involves specified offences. She submitted that a caution order would not mark the seriousness of this matter and would be insufficient to maintain the high standards the public expect of the nursing profession.

She submitted that there are no workable, measurable or appropriate conditions of practice capable of addressing the serious nature of the concerns. Furthermore, conditions of practice would not be sufficient to address your harmful, deep-seated attitudinal problems or personality.

Ms Khaile submitted that a suspension order would not be appropriate. She referred the panel to SAN-2. She submitted that due to the length of your prison sentence temporary removal would be insufficient and not appropriate.

Ms Khaile referred the panel to the SAN-3e on striking-off orders, which sets out the key considerations the panel should take into in relation to imposing a striking off order:

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

She submitted that the answer is affirmative in each instance.

When asked if you had any submissions, you said that you will just pursue your appeal as nothing else can be achieved until such time.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Your multiple convictions for specified offences, being two counts of rape and sexual assault
- One of the convictions related to a junior colleague
- You were convicted of perverting the course of justice
- Your lengthy custodial sentence

The panel was unable to identify any mitigating features in your case.

As required by Article 29(3) of the Nursing and Midwifery Order, 2001, the panel first considered (pursuant to Article 29(4)) whether to undertake mediation or to take no

further action. It considered that neither of these outcomes would be appropriate as neither would restrict your practice. The public would therefore not be protected and the public interest would not be satisfied.

The panel then moved on to consider the four available sanctions set out in Article 29(5) of the Order. The panel first determined that a caution order would again not be appropriate as it would not restrict your practice: the public would not be protected and the public interest would not be satisfied.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the serious nature of the charges in this case and your lengthy custodial sentence. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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 Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- ...
- ...'

The conduct, as highlighted by your convictions, was a significant departure from the standards expected of a registered nurse. The panel considered that the serious breach of fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with your remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *'Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?'*
- *'Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?'*
- *'Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?'*

The panel also bore in mind SAN-2, which includes:

'The Fitness to Practise Committee should be mindful of the following aggravating factors:

- *situations where the nurse, midwife or nursing associate has abused a position of trust they hold as a registered professional or a position of power.*
- *situations where the nurse, midwife or nursing associate has to register as a sex offender.*

...

...as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code and the safety of people receiving care, any nurse, midwife, or nursing associate who is found to have behaved in this way will be at risk of being removed from the register.'

The panel determined that your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that your convictions were for serious sexual offences and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was 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.

This will be confirmed to you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. The panel may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Khaile.

Ms Khaile invited the panel to impose an interim suspension. She submitted that the period of such an interim order should be for 18 months to cover any appeal made by you against the substantive order. She submitted that the application is necessary on the grounds of public protection and in the public interest.

Ms Khaile invited the panel to consider an interim suspension order for 18 months.

Decision and reasons on interim order

The panel was satisfied that an interim order is not necessary for the protection of the public given that you are currently serving a lengthy custodial sentence. However, the panel was satisfied that an order is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or workable in this case, for the same reasons as identified in its substantive decision.

The panel determined that an interim suspension order was necessary to uphold public confidence in the nursing profession and to do otherwise would be incompatible with its earlier findings. The period of this order is for 18 months to allow for the possibility of an appeal to be made and concluded.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking off order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.