

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

**Restoration Hearing
Tuesday, 9 April 2024**

Virtual Hearing

Name of Applicant: Cynthia Osarumen Thomas

NMC PIN: 08D0986E

Part(s) of the register: Registered Nurse – Adult
RNA – 22 May 2009

Relevant Location: Bromley

Panel members: Rachel Onikosi (Chair, Lay member)
Pamela Campbell (Registrant member)
Colin Sturgeon (Lay member)

Legal Assessor: Paul Hester

Hearings Coordinator: Hamizah Sukiman

Nursing and Midwifery Council: Represented by Chengetai Mupara, Case
Presenter

Mrs Thomas: Present and represented by Owusu Abebrese,
instructed by Bridges Solicitors

Outcome: Application granted, subject to a successful
completion of the NMC return to practice
standards

Determination of application for Restoration to the Register:

This is a hearing of your first application for restoration to the Nursing and Midwifery Council ("NMC") Register. A panel of the Conduct and Competence Committee directed on 12 April 2013 that your name be removed from the register based on its findings of fact and current impairment in relation to your conduct on the night of 12-13 December 2010 as a registered nurse. This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001 ("the Order"), as at least five years have now elapsed since the date of the striking-off order.

At this hearing the panel may reject your application, or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

The panel has considered your application for restoration to the Council's Register.

Background

You were referred to the NMC in August 2011 by the South London Healthcare NHS Trust ("the Trust").

You were employed as a registered nurse on Medical Ward 2 ("the Ward") at Princess Royal University Hospital ("the Hospital"). At the time of the incident, Medical Unit 2 was a respiratory ward, consisting of twenty beds. However, there had been instances of norovirus in the Hospital and as a result to stop it spreading all patients suffering diarrhoea and vomiting were placed on the Ward.

The charges concerned Patient A. Patient A was a 64-year old woman who was brought to the Accident & Emergency (A&E) department at 14:19 on 12 December 2010. She was diagnosed with gastroenteritis, dehydration and acute renal failure, and she was admitted to the Ward that evening.

You were responsible for Patient A after she was admitted by you to the Ward. You worked on this shift with another staff nurse (Colleague SW). The substantive hearing determined that you should have carried out an assessment on Patient A which

included taking and recording a complete set of observations, but you did not do so until 21:00.

At approximately 06:30 on 13 December 2010, you went to take Patient A's observations and you found that she was cold, clammy and drowsy, but still responsive. You then escalated your concerns culminating with activation of the cardiac arrest button when the doctor and the Clinical Care Outreach team attended. Patient A was found to have suffered a cardiac arrest. She was successfully resuscitated on the Ward on two occasions and transferred to the intensive care unit ("ICU"). In the ICU, she suffered a further cardiac arrest, and the attempts to resuscitate her were unsuccessful. She died at 07:44. A post-mortem was conducted, and the coroner reported that her death was caused by a cardiac arrest secondary to dehydration.

When speaking to Colleague AC, your ward manager at the time about the incident, you told her that you had attempted to take Patient A's blood pressure but failed to do so twice due to the electronic blood pressure machines not showing any readings. You told her you recorded this on Patient A's observation chart and evaluation chart. You also told her that you had carried out a capillary refill test. The panel also found that you went on your break for an hour at 03:30, and you did not inform Colleague SW of any concerns regarding Patient A. With regard to fluids, Patient A had been prescribed IV fluids every six hours. However, the panel found that you increased the flow in the first bag of fluids administered and, consequently, the bag was empty when you returned to change the fluids 6 hours later.

The Trust conducted an internal investigation and concluded that the root cause of the incident was your failure to escalate and act upon an un-recordable blood pressure following Patient A's admission by you to the Ward.

The panel at the substantive hearing considered the following charges:

"That you, whilst working as a Band 5 nurse on the Medical Ward 2 ("the Ward") at the Princess Royal University Hospital during the night shift of 12-13 December 2010 following Patient A's transfer from Accident and Emergency to the Ward at about 20.00 hours on 12 December 2010:-

1. *Upon receiving handover of Patient A from the Accident and Emergency nurse between about 20.00 and 20.30 hours did not:-*
 - a. *assess Patient A adequately or at all;*
 - b. *take Patient A's blood pressure;*
 - c. *take Patient A's pulse;*

2. *Waited until 21:00 to carry out observations on Patient A;*

3. *Did not thereafter provide adequate care during the course of the night shift in that you failed to:-*
 - a. *take a manual blood pressure for Patient A;*
 - b. *take Patient A's pulse;*
 - c. *record a blood pressure reading and/or pulse for Patient A (alternative to 3(a) and (b));*
 - d. *record or measure the patient "at risk" score for Patient A;*
 - e. *seek help from a colleague in order to obtain observations from Patient A;*
 - f. *Recognise that the capillary test for Patient A was yielding an abnormal result as colour had not returned to her finger after a few seconds;*
 - g. *escalate any concerns to the critical care outreach team and/or a senior nurse and/or a doctor in relation to Patient A's deteriorating condition and/or in relation to your difficulties with obtaining Patient A's blood pressure using an electronic machine;*
 - h. *make any further attempt to take Patient A's blood pressure after 2100 hours and prior to Patient A's cardiac arrest at around 0600 hours;*

4. *Provided inappropriate care to Patient A in that you:-*
 - a. *altered the rate of IV fluid flow without seeking advice or authorisation from a qualified medical practitioner;*
 - b. *failed to observe and/or document the time at which IV fluid intake ceased and the fluid bag was emptied;*

c. started a further bag of IV fluids without seeking the advice or authorisation of a qualified medical professional;

5. Did not raise any concerns with your colleague, Colleague SW, regarding Patient A's condition during handover and prior to going on a break at around 0330 hours;

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

You did attend the substantive hearing on 12 to 14 December 2012, which resumed and concluded on 12 April 2013. At that hearing, you made admissions to Charges 3(a), 3(b), 3(d), 3(e), 3(g) and 3(h). You also made admissions to Charges 4(a), 4(b) and 4(c).

The panel, at the substantive hearing, found all of the remaining charges proved, save for Charge 3(f).

The substantive hearing panel determined the following with regard to impairment:

'On the basis of all the evidence before it, the panel has no doubt that you remain a risk to patients. You gave further evidence today that you have, since the last hearing, accessed some healthcare training material on the internet, including a website provided to you by an agency. The panel was unimpressed by this evidence. The panel considered that you have done little to remedy your clearly identified deficiencies since the last hearing. When questioned by the case presenter and by a panel member, you were unable to provide any cogent or convincing explanation of the value or relevance of the steps you have taken. Further, you have provided no further documentary evidence of any kind to support your evidence.

At the last hearing, you presented the panel with a statement from [Colleague KC] dated 11 December 2012 referring to some training you had undertaken

there on one day in October 2012 and one day in November 2012. You told the panel today that these training sessions involved attendance only without assessments. That statement also refers to two days in December when your reflective account essay was reviewed and discussed. You also provided a copy of that reflective account. The panel considered that this evidence fell well short of what would be required to show that you have made serious and meaningful efforts to address your deficiencies. Four months on, the panel has serious concerns that you have done little, if anything, since the last hearing to specifically address the concerns it identified in December 2012.

The panel was greatly concerned that, in your oral evidence today, your inability to respond clearly and convincingly to questions relating to baseline observations suggests that you have still not appreciated their fundamental importance to basic nursing care and safe practice.

The panel had regard to the three-fold test propounded in Cohen v GMC [2008] EWHC 581 (Admin). The panel doubts whether your deficiencies are easily remediable. Whilst you have expressed remorse and have professed that you have learned from your mistakes, the panel is unconvinced that you have demonstrated the insight required or the necessary resolve to achieve the necessary remediation. The panel is concerned that you already possessed the knowledge and skills that were required of you but manifestly failed to apply them. The panel finds that you have not in fact remedied your deficiencies. The panel considers that they are not unlikely to reoccur.

The panel also referred to the judgment of Mrs Justice Cox in the case of CHRE v NMC and Paula Grant [2011] EWHC 927 (Admin).

At paragraph 76, Mrs Justice Cox approved the test suggested by Dame Janet Smith in her fifth Shipman Report, which (so far as is relevant and in the context of the nursing profession) states:

“Do our findings of fact in respect of the registrant’s misconduct... show that her fitness to practise is impaired in the sense that she:

a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) has in the past brought and/or is liable in the future to bring the nursing profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the nursing profession;

...

The panel was in no doubt that the findings of fact show that your fitness to practise is impaired in the sense of all three of these categories for the reasons outlined above.

In the light of the judgment in Grant, the panel further considered whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the circumstances of this case, and concluded that it would.

For all the reasons outlined above, the panel has determined that your current fitness to practice is impaired by reason of your misconduct.’

The substantive panel went on to determine the following with regard to sanction:

‘The panel next considered the imposition of a suspension order. The panel considered the non-exhaustive list of factors in the ISG which may indicate that a suspension order is appropriate.

Mrs Thomas, you would have been made clearly aware, certainly after the last hearing, of your clearly identified failures. In the panel’s judgment, you have had

a further opportunity, since December 2012 when the panel made its findings of facts, to reflect upon and seek to remedy your misconduct and develop sufficient insight. You have not done so. The panel considered it highly unlikely in a period of months, between today and a future review of a suspension order, that you would achieve any more than you have during these proceedings subject to interim suspension for 18 months. Whilst there is no evidence that there has been repetition of the misconduct, due to your ongoing suspension, the panel is concerned that there remains a risk of recurrence and a real risk of harm to patients if the misconduct were to be repeated.

The panel considered that the public could be protected temporarily by the imposition of a suspension order; however, in all the very serious circumstances of this case, it is not satisfied that such an order would satisfy the wider public interest, in declaring and upholding standards of behaviour and maintaining public confidence in the professions. At the time of the incidents and to this present day, you have failed to demonstrate your understanding and appreciation of carrying out the most basic of nursing requirements and standards. It has therefore determined that a suspension order is not appropriate in these circumstances.

In contrast, looking at the factors which may indicate a striking-off order, the panel considered that the failings in this case involve a serious departure from the standards in the Code. The panel is of the view that your misconduct is fundamentally incompatible with you being able to continue to practise as a registered nurse. It has concluded that a striking-off order is proportionate and appropriate in all the circumstances. A lesser sanction would not be sufficient to satisfy the wider public interest in maintaining confidence in the profession and its regulator and in declaring and upholding proper standards of conduct and performance.

The panel is mindful of the significant professional, financial and personal impact such an order could have on you, but concluded that your interests are outweighed by the public interest in this matter.

Accordingly, the panel has determined to direct the Registrar to strike you off the register.'

Submissions and evidence

The panel took into account the documentary evidence, which included the contents of application for restoration which you submitted to the NMC, four written references, your reflective piece as well as the training certificates on Clinical Observation Skills, dated 22 February 2023, and on Safeguarding Vulnerable Adults Training, dated 19 October 2022. The panel also noted your completed training on the LGT Online Learning Portal as part of your employment with Lewisham & Greenwich NHS Trust.

The panel had regard to the submissions of Mr Mupara on behalf of the NMC. Mr Mupara briefly outlined the background of the case and the facts that led to the striking-off order in 2013. He submitted that the NMC's position on this application is neutral, and this decision is a matter of professional judgment for the panel based on the written evidence available before it, the oral evidence you have provided today under oath and the submissions made by Mr Abebrese on your behalf.

The panel heard the evidence you provided under oath. You told the panel that you realised you failed in all aspects at the time of the incident. You told the panel that, at the time, [PRIVATE].

You also told the panel that you were represented for part of your substantive hearing, but you were not represented towards the latter end of the hearing process. However, you said you were not fully advised in relation to the charges. You expressed to this panel that, on reflection, you would have admitted to all the charges at the substantive hearing, and you would have taken the time to express how you could have better protected the public.

With regard to insight and reflection, you told the panel that, upon reflection, when you failed to obtain a blood pressure electronically, you should have used a manual blood pressure machine and conducted an ABC check. You also said you should have

escalated the matter to other colleagues, doctors and the clinical response team. You told the panel that you should have continued to observe the patient until a response arrived. You told the panel that, as you currently work within the NHS as a Healthcare Assistant (“HCA”), you have strengthened your knowledge and skills, in particular with regard to communication with your colleagues and escalation of concerns, if necessary.

In relation to your employment since 2013, you told the panel that you initially worked as a Band 2 phlebotomist support worker and Band 2 HCA after you were struck off the nursing register. You then gained promotion to be a Band 3 phlebotomy supervisor, and your role involved training nurses and new phlebotomists. You also worked as a Band 3 HCA in cardiology and on a surgical ward for a few months, and you worked bank shifts as an HCA. You said you are currently a Band 4 falls practitioner, and you are involved with induction training for new nurses. You told the panel that you remained working in healthcare as you are compassionate and enjoy looking after people, and remaining in healthcare has allowed you to strengthen your knowledge by applying all of your skills in practice.

You told the panel that being struck off the register has allowed you to grow into the profession. You said you have completed training courses, both privately and within the Lewisham & Greenwich NHS Trust which have allowed you to keep your knowledge up to date. You said you now know you should have communicated with your colleagues and your manager better and you are now able to communicate effectively, escalate issues as necessary and practise within your limitations. You said recognising your limitations is important, as this directly relates to the IV fluids incident, and you now know the importance of working within your limits.

With regard to the NMC Code of Conduct, you told the panel you have reflected on your duty to practise effectively, preserve the safety to your patients, to promote professionalism and trust as well as the importance of prioritising your patients and the public safety. You confirmed that, prior to the incident, your nursing record was unblemished.

When asked whether you would you be willing to take any courses or to comply with conditions imposed by panel, you confirmed that you are willing to take courses, including a Return to Practice Course, in order to build up your confidence, competence and skills, particularly on medicines calculations.

You summarised the training you have completed since you were struck off the nursing register. You said the training has allowed you to fully understand the importance of communication, the respect of patient rights, your duty to deliver care effectively to your patients, as well as the importance of telling the truth. Your training has also helped with your observation skills, particularly when identifying deteriorating patients and the use of the ABCD assessment with patients as necessary, as well as the appropriate escalation and management of patients. You also informed the panel of the references you have provided, and your relationship with the referees.

In response to questions asked by the panel on why you may have been unable to get Patient A's blood pressure, you told the panel that it is likely you were unable to get the patient's blood pressure due to physiological changes caused by dehydration. You said you now would conduct a capillary test to assess length of time for capillary refill, identify that the patient was confused, commence a MEWS chart and assess the patient's airways, breathing and circulation, which would all signify that the patient was dehydrated and deteriorating.

You were asked about your current work, and you told the panel that you were working full-time since you were struck off until six months ago, when you started working part-time. If you were to return to study to improve your confidence and competencies again, you would find it manageable as your part-time role would allow you to study outside of working hours. You told the panel that your manager has expressed that she is willing to support you throughout the Return to Practice Course.

With regard to your Safeguarding Vulnerable Adults Training, you told the panel that the training was conducted virtually over one day, with six other attendees. It consisted of a mix of PowerPoint presentations as well as examples, and an assessment, consisting of some multiple-choice questions and write-up. You told the panel there was no grade

given, but that you passed and an achievement certificate was awarded for attending the course, which was before the panel.

With regard to your Clinical Observation Skills training, you told the panel that this consisted of several modules over a period of several weeks. You said that, in order to progress to the next module, you had to read, complete and pass each prior module. At the conclusion of all the modules, you were required to write a 2000-word essay. You told the panel that this training was not mandatory, but that you enrolled onto the training at your own expense (approximately £100) as it was for the specific skill you were looking to improve on. You achieved a distinction at the conclusion of the course.

You told the panel that, in addition to the formal training, you have kept yourself up to date by self-reading on ethical issues, the delivery of safe and adequate care to patients, managing and assessing patients more generally. You said that you used the Lewisham & Greenwich NHS Trust website to access information as well as other sites including Indeed. You also said you had completed a drug calculations course to help prepare you in your return to nursing. You said this helped to improve your knowledge and you apply this in your work as an HCA. You told the panel that you enjoyed your work within the cardiac unit, where the monitoring of patients is essential. In your current role, you have a lot of insight into documentation and safeguarding, and when you are teaching others, you are open about your own experience of having been struck off for failing to undertake observations so that they can see the importance of this. You said that you also keep yourself updated by asking registered nurses on shift about clinical issues.

When asked about the consequences of the incident on others, you told the panel that you are ashamed of what happened, and that you had failed your profession. You said you had to remain in healthcare to become competent and not fail the public again. You expressed confidence that you can now protect the public, prioritise your patients and you are dedicated to providing safe and adequate care to your patients.

The panel asked questions about your professional relationship with some of your referees, and you confirmed that Colleague LB has been your manager since 2017.

Prior to that, you were bank staff, so she was your manager, albeit not directly. You confirmed that you used to work alongside Colleague CL closely for seven years, but she has never directly managed you. You also confirmed that Colleague YE is a long-standing work colleague, who is now a friend but you no longer work together. You confirmed Colleague YE is not on the NMC Register.

When asked about how you felt regarding being struck off the nursing register, you told the panel that you felt upset that you have let both your profession and the wider public down. You said that [PRIVATE]. You said [PRIVATE]. You told the panel that you were upset with yourself, and you were upset for the public. You said you remain sorry for what has happened. At this stage, you said you felt determined and confident to return to nursing.

The panel accepted the advice of the legal assessor.

The legal assessor referred the panel to the test provided in Article 33(5) of the Order as well as the relevant NMC Guidance. Firstly, the panel must be satisfied that the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice) are met. Secondly, the panel should consider whether, having regard in particular to the circumstances which led to the making of the striking-off order in 2013, you are now a “fit and proper person to practise as a registered nurse”. The legal assessor advised the panel that it was for the applicant to satisfy the panel on her evidence, and the panel must use its own independent judgment as to whether it is so satisfied.

Decision on the application for restoration

The panel has considered your application for restoration to the NMC register very carefully. It has decided to allow the application subject to your successful completion of the NMC’s return to practice standards.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that

the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse. The panel considered the NMC Guidance entitled '*Deciding on applications for restoration*' (APP-2a).

When deciding on your insight as well as your strengthened practice since your striking-off order, the panel considered both the written evidence you have provided as well as your oral evidence under oath today. The panel was satisfied that you understood the broader impact of the incident on members of the public and the profession, and you have demonstrated remorse. The panel also considered that you understood the physiological changes that you failed to recognise at the time of the incident, and you have undertaken a relevant, assessed course on clinical observations to strengthen your knowledge in that area. The panel had regard to the nature of the course – namely, progress was determined by passing each module individually, as well as the essay-writing assessment – and how you sought out and paid for the course personally. The panel was satisfied that this course, alongside all the other training you have completed since you were struck off, indicated good insight into your failings, and the most appropriate way to remedy those failings.

The panel considered that it has been eleven years since you were struck off the nursing register, and this is your first restoration application. The panel noted that, in your reflective statement, you acknowledged that there was an opportunity to apply for restoration earlier, but you chose not to as you wanted more time. The panel also considered that, since you were struck off, you have been working within healthcare with the NHS, and you have been working in a number of different areas. The panel also considered that although it has been eleven years since the striking-off order, you appear determined and persistent to return to nursing. The panel was satisfied that the evidence you gave, in that respect, was compelling.

In regard to your employment history since your removal from the register, the panel considered your evidence on how you began working as a Band 2 HCA and you are currently in a Band 4 position. The panel was satisfied that the number of roles you have undertaken since your striking-off order has allowed you to gain a breadth of experience.

The panel also considered the efforts you have made to keep up to date with professional practice. The panel was satisfied that, through your training and the self-directed reading you engaged in, as well as your inquisitive nature with other registered nurses, you have made considerable effort to keep up to date with your professional practice.

The panel then considered whether you are able to practise safely in the future. The panel determined that, in light of the time which has passed, the varied employment opportunities you have gained in that time, the training you have completed as well as your dedication to the nursing profession, you are able to practise safely in the future. The panel concluded that the public would be satisfied that you have done everything within your ability, and you are ready to return to nursing. In accordance with NMC Guidance, the panel acknowledged that there is a spectrum of concerns which may lead to a nurse, midwife or nursing associate being struck off the register. However, in this case, the panel considered that the concerns were just serious enough to end in a striking-off order. Accordingly, in light of your strengthened practice and insight, the panel is satisfied that you are able to return to safe practice.

In determining to grant your application for restoration the panel bore in mind that you have not practised as a registered nurse since 2013 and that you no longer meet the requirements for registration with the NMC on this basis. However, the panel determined to allow your application for restoration subject to your successful completion of the NMC's return to practice standards. This may be through the successful completion of the NMC Test of Competence, or the completion of a Return to Practice course as well as paying the prescribed fee which satisfies the requirements of Article 19(3) and Article 33(7)(a). This article states:

“The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.”

“(7) On granting an application for restoration, the Committee—

(a) shall direct the Registrar to register the applicant in the relevant part of the register on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and”

That concludes this determination.

This decision will be confirmed to you in writing.