

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

**Restoration Hearing  
11 March 2024 and 24 April 2024**

**Virtual Hearing**

**Name of Applicant:** Khulisiwe Zondo

**Former NMC PIN:** 98C2610E

**Former part of the register:** Registered Nurse – Sub Part 1  
Adult Nursing (Level 1) – 26 April 2001

**Panel Members:** Bernard Herdan (Chair, Lay member)  
Jenny Childs (Registrant member)  
Frances McGurgan (Lay member)

**Legal Assessor:** Tim Bradbury

**Hearings Coordinator:** Ruth Bass (11 March 2024)  
Jumu Ahmed (24 April 2024)

**Applicant:** Present and represented by Marc Walker of  
What Rights Professional Conduct

**Nursing and Midwifery Council:** Represented by Lucy Chapman, counsel  
instructed by the NMC (11 March 2024)  
  
Represented by Gulcan Olurcan, counsel  
instructed by the NMC (24 April 2024)

**Outcome:** Application granted subject to successful  
completion of a Return to Practice course

## **Determination of application for Restoration to the Register:**

This is a hearing of your second application for restoration to the Nursing and Midwifery Council Register.

A panel of the Conduct and Competence Committee (CCC) directed on 22 September 2005 that your name be removed from the register based on its findings with regard to the facts of your case and your impairment. 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.

On 5 April 2012, you made an unsuccessful application for restoration.

At this hearing, the panel may reject your application, or it may grant your application unconditionally. It may grant your application subject to you 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 NMC's Register.

## **Decision and reasons on application for the hearing to be heard partly in private**

At the outset of the hearing, Ms Chapman, on behalf of the Nursing and Midwifery Council (NMC), made a joint application with Mr Walker, on your behalf, for matters pertaining to [PRIVATE] to be heard in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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 a 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 accepted the advice of the legal assessor and determined to go into private session as and when such issues are raised relating to [PRIVATE], so as to protect your right to privacy.

## **Background**

You first registered as a Registered Adult Nurse in April 2001.

At the time of the incidents, you were employed by St. Bartholomew's Hospital on the Rahere Ward which was a 30-bedded oncology ward which cared for patients with cancer. In, or around, April 2004, you started working night shifts which happened to coincide with a number of thefts that had taken place around the ward, and particularly when you were on shift.

The Trust reported the matter to the police. Their involvement in the case culminated in the discovery of stolen items during searches. During police interview, you made admissions and later pleaded guilty in the Magistrates' Court and were sentenced to a conditional discharge.

The charges which were found proved by way of your admission to the Conduct and Competence Committee in September 2005 concerned the theft of prescription and non-prescription drugs, the theft of two ten pound notes, theft of a DVD player from a patient and a purse belonging to a nurse containing a number of personal items including debit cards. The charges all related to the period of between December 2003 and June 2004.

You attended the hearing in 2005 unrepresented and admitted all of the allegations against you. You [PRIVATE] took full responsibility for your actions. The panel at your substantive hearing found that your fitness to practise was currently impaired by reason of your misconduct and determined to strike you off the register.

You subsequently committed motoring offences in the period 2008 – 2010 and were convicted of driving without insurance or a vehicle test certificate on two occasions. In

2011, you were found guilty of a drink driving offence and disqualified from driving for 12 months.

You made an application to be restored to the Register on 5 April 2012 which was refused. The reasons given by that panel are set out below:

*'...This was a serious case. The public interest weighed in favour of your name being removed from the NMC's register. As a consequence you have been unable to practice for a long period of time by virtue of your misconduct. In the panels view you have demonstrated lack of insight into the reasons why you were removed from the register. You constantly referred to your previous misdemeanours as "mistakes" whereas they involved extremely serious criminal conduct.*

*In your oral submissions and written statement you dealt, in detail, with the ways in which you would avoid similar problems arising in the future. When asked further questions you gave an account of what you have learnt, how you have changed, how you would practice [sic] in the future, and how you would ensure the interest of patients. You also provided references, however these reflect more on your clinical practice rather than your past dishonesty and how you have remedied this.*

*You have informed the panel of your work history and your recent commitment to remaining within the health care environment. You are able to say how your current role interfaces with nursing. Additionally you have made enquiries regarding a return to practice course at Coventry University.*

*The panel has examined the references you submitted and note that they do not mention specifics of the allegations you faced in 2005. Furthermore the reference from a member of your church states that she does not know the full reasons why you were removed from the register. In view of the fact that you say that part of your remedial process was engagement with the church, this omission to tell*

*this person the full story does not support your case that you have remedied your previous failures.*

*[PRIVATE]. To the panel this provides further evidence of your disregard for the law and the interests of the public. Moreover the panel has seen evidence of further episodes of dishonesty in that on your application for restoration form dated 28 July 2011 you did not declare to the NMC other convictions for driving a motor vehicle without a licence or insurance on two occasions in 2008 and 2010. Your explanation that you thought you should only declare the most serious conviction was in the panels view wholly unconvincing. Driving without a licence and insurance is in itself a serious matter and again showed disregard for the law and the interests of the public.*

*In view of all the above and after very careful consideration we have concluded that you are not a fit and proper person to be returned to nursing and that you have not remedied your previous failings. The panel has determined that you still lack insight into your failings and you do not fully understand the impact of your behaviour on the reputation of the nursing profession. The panel is conscious of the need to uphold proper professional standards and the panel consider that public confidence in the profession would be wholly undermined if a restoration order was made at this stage.*

*The panel notes the positive aspects of your application in that you now have support from the church. You have a job that you like and you are valued by your employer. There is no suggestion in the evidence that you are anything but competent in a carer's role. The panel has determined that dishonesty is not easily remediable. However, if you choose to apply again, the panel recommends that such evidence as you produce concentrates on the issues of insight and as to whether you are a fit and proper person to practice as a nurse.*

*For all these reasons your application for restoration to the register is refused.'*

This panel had regard to the submissions of Ms Chapman, on behalf of the NMC, the submissions of Mr Walker on your behalf, and your oral evidence.

The panel took account of the documentary evidence before it, consisting of your application for restoration which you submitted to the NMC, your written reflections, training records, and three supporting references.

Ms Chapman outlined the background of the case and the facts that led to your striking-off order and set out the reasons for the substantive hearing panel's decision which resulted in your removal from the NMC's register.

Ms Chapman submitted that it was a matter for this panel whether you have demonstrated sufficient insight. She submitted that your application to be restored to the register had not addressed the seriousness of the past misconduct committed. And that although you had referred to making changes in your life, this was inconsistent with the three convictions you received after you were struck off the register. She further submitted that although the convictions were protected, you were nevertheless required to disclose them to the NMC when applying for restoration to the register and had failed to do so.

You gave oral evidence to the panel under oath.

Following your oral evidence, Ms Chapman made further submissions. She recognised that you had accepted responsibility for your actions regarding [PRIVATE], had been apologetic and did not seek to minimise your actions in this regard. You have demonstrated commitment by working and caring for patients for the past ten years and taken practical steps towards planning a return to the register by researching various courses. You have been placed in positions of responsibility as both a key holder and a lone worker with access to similar items that gave rise to the initial concerns. Ms Chapman further submitted that the panel may find that you had done exceedingly well to turn your life around from the situation you were in.

Ms Chapman invited the panel to assess your suitability to return to the register, based on your current position and all the evidence that was put before the panel, to include your change in circumstances and improved insight and remediation. She submitted that the public interest and public protection would have to be satisfied such that you would be able and suitable to return to the register.

Mr Walker invited the panel to grant your application to be restored to the register, subject to you satisfying the NMC's return to practise standards.

Mr Walker submitted that you had admitted the allegations not only during the regulatory proceedings, but also during the criminal investigation. He submitted that you have been remorseful of your actions and had remedied your past misconduct. He asked the panel to consider your remediation [PRIVATE]. He submitted that you had shown insight into the impact of your behaviours in your reflective pieces, which had been bolstered by your oral evidence. You have demonstrated a clear understanding of the relevant standards of the Code and an understanding of the importance of those standards, how serious your actions were and how they had impacted on the reputation of the nursing profession. He further submitted that you have been working every day to become a better person and would reassure those who might still have concerns about you by your candour, sharing what you had learnt from your experience, showing that you understood the seriousness of your behaviours and how that behaviour had undermined public trust and confidence in the profession.

Mr Walker submitted that there has not been any repetition of your previous behaviour or any concerns regarding your honesty and integrity, and that this was a strong indicator of your remediation. You have now regularised your driving status and have been wholly candid about your driving offences. He submitted that you had taken the past 12 years, since the last hearing in 2012, to fully remediate. He further submitted that you have disclosed your convictions to your employers who had confirmed the fact of those disclosures, and that you had also kept up to date with nursing matters. Mr Walker referred the panel to evidence of reading and exercises you had carried out in this regard, together with several certificates of training you had undertaken within your workplace.

Mr Walker submitted that your desire to care for others has never been extinguished and this is what continued to motivate you. He further submitted that your clinical practice had never come into question. He submitted that all of your referees, whose statements had been made available to this panel, were fully aware of the circumstances of you being struck off, and the following driving offences, and that they had no concerns.

Mr Walker submitted that you had undertaken a 'Probity and Ethics' course and you were able to recognise the matters that needed to be addressed and had taken steps to do so. [PRIVATE]. He submitted that you are capable of safe and effective practice and that the panel could be fully satisfied that the requirements for restoration had been met by you.

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

The legal assessor reminded the panel of the test, as provided in Article 33(5) of the Nursing and Midwifery Order, 2001. Firstly, you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the original striking-off order in 2005 and the refusal of the panel in 2012 to restore you to the Register, you are now a "*fit and proper person to practise as a registered nurse*". He advised the panel that it is for you to satisfy the panel of these two matters and it is for the panel to 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 a Return to Practise course and/or such other educational training as may be required pursuant to Article 19(3) of the Order.

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 on 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 first considered the extent to which you had demonstrated insight and had addressed the concerns which led to the original striking-off order, and the subsequent convictions for motoring offences. It had regard to your written reflection, which it found to be in-depth and comprehensive, and your oral evidence which it found had bolstered the insight you had shown in your reflective piece. The panel was satisfied that you had demonstrated an understanding of the serious impact of your actions on patients, colleagues, members of the public and the nursing profession as a whole.

It noted in particular the following passages from your written reflections:

*'I failed to adhere to the NMC Code of Conduct when I failed to promote a safe environment for my colleagues, the public and broke the code (NMC 2018, 17.1) 'to take all steps to protect people who are vulnerable or risk from harm, neglect or abuse'. I was not a model of integrity and could not be leading anyone at all. I was dishonest and broke the trust my colleagues and the public, I did not act according to the code (NMC 2018, 20).'*

*'The decision that I made, which have resulted in me breaking the law, not only affected me, [PRIVATE], the public and mostly the reputation of the nursing profession. [PRIVATE]. I can only continue to apologise and assure you that I have learnt and would not act in this dishonest way again.'*

*'In analysis this has been extremely challenging but also a learning and informative stage of my life both personally and professionally. As a nurse I am expected to adhere to The Code for Professional Standards of Practice and Behaviour for nurses and Midwifery and nursing associates 2018, which states*

*that the professional standards which should be upheld at all times and always to act in the line with the code. Reflecting on my behaviour and conduct that lead to my convictions and striking order, I failed to act in a professional manner and I failed The Code. I failed to follow a big part of the code that is set standards by the patients and members of the public, which was undermined by my behaviours. As a nurse I have learnt to be open about my feelings and need to seek help when need be.'*

The panel found, when compared to the situation in 2012, that you had demonstrated a far greater level of insight into the effect of your actions on patients, colleagues, your family and the nursing profession. You expressed to the panel that you had taken time to consider the findings of the previous panel and had found it to be a fair decision. Further, you expressed that the previous panel's findings had helped you to reflect further on your actions.

[PRIVATE].

You told the panel that you had undertaken 'Probity and Ethics' course of your own volition that had helped you to explore and identify the magnitude of your actions with regard to the original charges, and the later driving offences. You set out for the panel what you had learned from the course, which included your understanding of the damage to patients' trust in you and the nursing profession. You spoke of the impact on patients not being able to trust a nurse while in a vulnerable state and subsequently delaying treatment. Also, the effect on colleagues in not being able to trust you and how this could impact their work if they did not wish to work with you, and the possibility of rota's needing to be changed as a result and the impact of these changes on patients. You said it had '*given [you] the insight of seeking help when needed in-order to avoid the same mistakes occurring in the near future...*' You also explained the impact the drink driving course you undertook had on you. You expressed genuine remorse and regret for the risk of harm you exposed members of the public to, and insight as to what could have happened as a result of this action. The panel was satisfied that you had developed full insight into your actions.

With regard to the dishonesty concerns raised by the previous panels, this panel had regard to the three positive references you had provided, noting that two of them were from managers at your current place of work. It noted that all of the referees were aware of the circumstances of your misconduct and that none had any concerns with regard to your current character. You have been a keyholder at the Care Bureau, your current employer, with access to patients' medication, patients money and bank cards, and have been working in patients' homes alone. The panel noted there had been no repetition in the past 12 years of the misconduct which had been found proved despite the significant access to patients' personal belongings. It also deemed your managers trust in you to be a key holder, despite knowing the details of your previous regulatory findings, was evidence of their trust in your reformed behaviour.

The panel also had regard to your desire to return to nursing practice and the efforts you had made to keep up to date with the same. It noted that you had continued to care for patients in a healthcare setting and had undertaken training, to include mandatory training, and voluntary training at your own expense. The panel was satisfied that you have given careful consideration of how you could achieve a safe return to nursing. It noted that you had investigated return to practise courses and had found a university that you are in discussion with pending the outcome of this hearing.

[PRIVATE].

The panel next considered whether, in the context of the concerns that led to the striking-off order, public confidence in the nursing and midwifery professions would be undermined, if you were to be restored to the Register. The panel was of the view that the conduct that led to you being struck off the Register was very serious. However, the panel was of the view that you had demonstrated that you understood the gravity of your actions and how this was likely to have negatively impacted the public confidence and trust in the nursing profession. The panel was satisfied that you had demonstrated that you are a fit and proper person for the purposes of being restored to the register. It was satisfied that fully informed members of the public, with knowledge of your high level of insight since the original misconduct and continued determination to reflect, and knowledge that you had remedied the concerns, [PRIVATE], and demonstrated genuine

remorse for your actions, would be reassured that you were capable of returning to the Register. The public would be satisfied that, having been struck off some 18 years ago, you had been given ample opportunity to reflect on, and learn from, your past misconduct, and you have now done so.

In determining to grant your application for restoration the panel bore in mind that you have not practised as a registered nurse since 2005 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 completion of a Return to Practice course and/or such other education or training as may be required pursuant to Article 19(3) of the Order and paying the prescribed fee which satisfies the requirements of Article 19(3) and Article 33(7)(a).

That concludes this determination.

This decision will be confirmed to you in writing.