

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Restoration Hearing  
30 August 2019**

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

<b>Name of Applicant:</b>	Sandra Tendayi Mushore
<b>Previous NMC PIN:</b>	98Y0416E
<b>Previous Part(s) of the register:</b>	Registered Nurse – sub part 1 Mental Health Nursing – 1 May 2001
<b>Area of Previous Registered Address:</b>	England
<b>Panel Members:</b>	Gill Madden (Chair, Lay panel member) Claire Clarke (Registrant panel member) Bryan Hume (Lay panel member)
<b>Legal Assessor:</b>	William Hoskins
<b>Panel Secretary:</b>	Raj Patel
<b>Nursing and Midwifery Council:</b>	Ben Edwards, Case Presenter
<b>Miss Mushore:</b>	Present and not represented
<b>Outcome:</b>	Application granted subject to completing a Return to Practice Course

## **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. On 17 October 2008, a panel of the Conduct and Competence Committee directed that your name be removed from the Register based on its findings with regard to the facts in your case and your misconduct. This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001, as at least five years have now elapsed since the date of your strike-off.

This is an application for restoration to the NMC register and 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 as set out in the Substantive Hearing**

The panel at the substantive meeting of the Conduct and Competence Committee on 17 October 2008, considered the following charges:

1. On or around 13 February 1998, dishonestly provided false information on an application form in support of your application to enter onto the 'Diploma in Higher Education – Registered Nurse Pathway – Mental Health Branch' course at Anglian Ruskin University (formerly known as Anglian Polytechnic University), in that you falsely stated that you had achieved the following:
  - (a) A General Certificate of Education Ordinary Level (GCE O-level) qualification in English at Grade A
  - (b) A GCE O-Level qualification in Maths at Grade C
  - (c) A GCE O-Level qualification in Biology at Grade C
  - (d) A GCE O-Level qualification in Science at Grade B
  - (e) A GCE O-Level qualification in Commerce Grade B
  - (f) A GCE O-Level qualification in Geography at Grade B

- (g) A General Certificate of Education Advanced Level (GCE A-Level) qualification in English Grade A
- (h) A GCE A-Level qualification in Biology at Grade E
- (i) A GCE A-Level qualification in Maths at Grade D

2. On 26<sup>th</sup> March 1998, at your interview to enter on to the programme of study referred to above, dishonestly provided false information in support of your application, in that you submitted:

- (a) A fraudulent GCE O-Level certificate that contained the information set out in 1(a) to (f)
- (b) A fraudulent GCE A-Level certificate that contained the information referred to at 1(g) to (i)

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

This panel noted that you did not attend the substantive meeting on 17 October 2008, and made no admissions to any of the charges brought against you.

The substantive meeting panel, after finding the factual allegations proved, stated the following with regard to impairment:

...

In considering this, the panel took into account the terms of the NMC Code of Professional Conduct and Competence and in particular the following paragraphs:

1.2 As a registered nurse, midwife or specialist community public health nurse, you must:

- act in such a way that justifies the trust and confidence the public have in you
- uphold and enhance the good reputation of the professions.

1.3 You are personally accountable for your practice. This means that you are answerable for your actions and omissions, regardless of advice or directions from another professional.

1.5 You must adhere to the laws of the country in which you are practising.

7 As a registered nurse, midwife or specialist community public health nurse, you must be trustworthy.

7.1 You must behave in a way that upholds the reputation of the professions.

Behaviour that compromises this reputation may call your registration into question even if it is not directly connected to your professional practice.

The registrant's fraudulent actions that led to admission to a course for which she was not qualified were a breach of these provisions and so the panel reached the decision that the registrant's fitness to practise is impaired by reason of her misconduct.

...

The substantive meeting panel went on to say with regard to sanction:

...

In reaching its decision on the level of sanction to impose the panel took into account the advice of the legal assessor, the terms of the Indicative Sanctions Guidance issued by the NMC and kept to the fore of this thinking the need for proportionality and fairness.

The panel has taken its decision on the information that was before it today.

The registrant has provided dishonest information in order to obtain entry on to a programme of study which subsequently led to her being admitted to the NMC's register. By misrepresenting her academic qualifications, and in particular by submitting fraudulent examination certificates the registrant concealed her actual insufficient academic qualifications and misled the academic institute which admitted her on that false basis.

The panel first considered whether it was appropriate to take no further action in this case and came to the conclusion that this would be inappropriate in such a case.

The panel then considered whether a caution order was an appropriate level of sanction in this instance but having considered carefully the various indicators listed in the Indicative Sanctions Guidance under this section came to the view that there was insufficient evidence of positive elements that would support the panel taking this course of action.

In a case involving fraudulent information and which did not relate to the registrant's practise the panel considered that a condition of practice order was impractical and inappropriate.

The panel believes that the registrant's misconduct was fundamentally incompatible with continuing to be registered with the NMC.

The seriousness of the charges and misconduct brought the reputation of the profession into disrepute and undermined the confidence of the public in the NMC. The panel came to the decision that the registrant's name must be removed from the register and so the panel is imposing a striking off order. The panel considers that this will provide the relevant level of protection for the public and is in the public interest.

...

## **Submissions and evidence**

This panel has had regard to the submissions of Mr Edwards, on behalf of the NMC. The panel also took account of your submissions and sworn evidence as well as the contents of the application for restoration which you submitted to the NMC which included three written references and your reason for this application. You further provided the panel with various certificates relating to training you have undertaken dated 2009 to 2018.

Mr Edwards guided the panel through the background of this case and the facts that led to the striking-off order. He also reminded the panel of the test set out in Article 33(5) of the Order.

Mr Edwards reminded this panel of the previous panel's decision which resulted in your removal from the NMC's register. He pointed out that the previous panel had found that your dishonesty had brought the profession into disrepute and breached a fundamental tenet of the profession.

Mr Edwards reminded the panel that there is a persuasive burden placed upon you to prove that you will not repeat your act of dishonesty. He also reminded the panel that your name was removed from the NMC register approximately 11 years ago.

Mr Edwards submitted that your written statement lacked insight into the damage your actions had on the nursing profession but he accepted that you had addressed this issue in your oral evidence. He invited the panel to note and consider that you have not kept your nursing knowledge and development up to date although you have provided the panel with some training material which you have completed both online and face to face as part of your employment as a Health Care Assistant (HCA).

He stated that you would need to complete a Return to Practice Course.

You provided evidence under oath.

In your oral evidence, you told the panel that you sincerely apologise for your dishonesty in falsely obtaining your nursing qualification. You told the panel that you recognise that your actions were very wrong. You deeply regret what you did and realised that you should have done things differently.

Since you have been struck off, you told the panel that you went on to complete a HCA course in 2009 and had been working as a HCA in a number of clinical environments until 2018. You told the panel that you had worked in various settings looking after elderly patients, patients with learning disabilities and vulnerable children within both acute settings and nursing home environments.

Whilst working part time as an HCA, you told the panel that you completed an access to Higher Education Diploma (Teacher Education) course dated 2013 and a BA Honours Degree in Education Studies dated 2016. You then went on to complete further post graduate study.

You told the panel that you have completed your recent university course and have been working as a compliance assistant within the university. You explained that this work involved supporting and assisting international students within the university.

You emphasised your genuine remorse to the panel, stating that you deeply regret your actions and you gave assurances that you would never repeat your dishonesty. You stated that you have always wanted to return to nursing, but you felt you were unable to apply for restoration earlier due to your level of guilt and your fear of the process.

You recognised that you have been out of practice for a number of years and had not undertaken any independent learning in relation to nursing. However, you stated that you have explored potential options of being able to complete a Return to Practice course, should your application to return onto the nursing register be permitted.

You assured the panel that you would never repeat your dishonesty and that you would satisfy the requirements in relation to additional education and training and would make

yourself fully aware of the latest developments in nursing practice, medication administration and changes to the NMC Codes.

The panel accepted the advice of the legal assessor.

The legal assessor referred the panel to the guidance contained within the Fitness to Practice library, and in particular to the test which the panel had to apply and the factors to be considered when deciding whether the applicant was a fit and proper person to apply for readmission to the NMC register.

### **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 recognised Return to Practice course.

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 will be able to practise safely and effectively as a nurse.

In your oral evidence today, the panel considered that you gave sincere and genuine evidence, demonstrating that you now understand and have taken responsibility for your previous dishonesty and would behave very differently in the future.

The panel accepted that you have spent the last 11 years coming to terms with your acts of dishonesty. The panel formed the view that you have reflected on this part of your life and on the impact such misconduct has on the profession and its reputation. The panel considered that your insight was now sufficient and that you are very unlikely to bring the profession into disrepute by further dishonest conduct.

The misconduct which led to you being struck off almost 11 years ago was very serious but not such as to preclude an application for restoration to the register after this period of time in view of your development of appropriate insight.

The panel noted that since you were struck off, you have been working in healthcare roles, as well as volunteering. The panel also noted the certificates of training and other documentation you have provided.

Having heard your oral evidence, the panel was satisfied that you are fully committed to a career in nursing and was satisfied that you will take the necessary steps to restore your knowledge of nursing practice to an appropriate level. The panel noted that you have not completed further training outside that which was mandatory in your previous role as a HCA and carefully considered this aspect of the case. The panel accepted that for many years you thought that you would be unable to apply for restoration to the NMC register because of the guilt and fear to which you referred. The panel also noted that you have been studying and working part time as HCA and have had the responsibility of bringing up a family. The panel was of the view that you were sufficiently committed to resuming a career in nursing and that it could be confident that you would in due course attain an appropriate level of knowledge and skills.

The panel was mindful of the public interest in maintaining confidence in the profession and upholding the proper standards required of a registered nurse. The panel also bore in mind that it was in the public interest to restore to the register an otherwise compassionate, caring and committed nurse who has clearly demonstrated a passion for nursing and is in the panel's judgement very unlikely to become involved again in dishonest conduct.

Accordingly, the panel is satisfied that you are a fit and proper person to apply for readmission to the NMC register and it allows your application.

In determining to grant your application for restoration the panel bore in mind that you have not practised as a registered nurse since 2008 and that you no longer meet the requirements for registration with the NMC. You will therefore need to complete a

Return to Practice course and to pay 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.