

Nursing and Midwifery Council

Fitness to Practise Committee

Restoration Hearing

16 July 2019

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

Name of Applicant: Dorcas Omolara Akinade

Former NMC PIN: 05J1010E

Former part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – March 2006

Area of Registered Address: England

Panel Members: Joy Julien (Chair, Lay member)
Kevin Hope (Registrant member)
Gregory Hammond (Lay member)

Legal Assessor: Cyrus Katrak

Panel Secretary: Charlie Russell

Nursing and Midwifery Council: Represented by Charles Drinnan, Case
Presenter

Ms Akinade: Present and represented by Dr Abbey
Akinoshun, of Erras Legal Services

Outcome: Application granted subject to a Return to
Practice course

Application for restoration to the NMC register

This is a hearing of your second application for restoration to the Nursing and Midwifery Council (NMC) register. A panel of the Conduct and Competence Committee directed on 20 October 2008 that your name be removed from the register based on their findings with regard to the facts of your case and your impairment.

On 5 December 2014 you made an unsuccessful application for restoration. You were present at the hearing and were represented by Pastor Isaac Okebiorunkosi. Mr Douglas Lloyd presented the case to the panel on behalf of the NMC.

You have made a second application to be restored to the register, pursuant to Article 33 of the Nursing and Midwifery Order 2001, which states:

33.—(1) Where a person who has been struck off the register by virtue of an order made by a Practice Committee or the court wishes to be restored to the register, he shall make an application for restoration to the Registrar...

(5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2) (a) and (b) but, having regard in particular to the circumstances which led to the making of the order ...is also a fit and proper person to practise the relevant profession.

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

This panel noted that on 11 September 2014 you changed your name by deed from Fatima Kaka Mohammed to Dorcas Omolara Akinade.

At a substantive hearing on 20 October 2008, a panel of the Conduct and Competence Committee found the charge against you proved by way of your admission. That panel also found that your fitness to practise was impaired by reason of your conviction. It directed that your name should be removed from the Nursing and Midwifery Council (NMC) register.

The charges you faced at the substantive hearing were as follows:

“That you, on 23 August 2007 at Basildon Crown Court were convicted of two offences of entering into or becoming facilitated the acquisition, retention or control of criminal property contrary to the Proceeds of Crime Act 2002; and on 28 September 2007 were sentenced to 12 months imprisonment suspended for two years for each offence to run concurrently, and ordered to carry out unpaid work for 150 hours before 28 September 2009.

AND in light of the above, your fitness practise is impaired by reason of your conviction.”

You attended the substantive hearing on 20 October 2008 and you made admissions to the charge. The panel at the substantive hearing therefore found the charge proved by way of your admission.

The substantive hearing panel, in making its decision on impairment, stated the following with regard to impairment:

“The Registrant was convicted on two counts of entering into or becoming concerned in an arrangement she knew or suspected facilitated the acquisition, retention or control of criminal property and was sentenced to 12 months imprisonment suspended for two years.

The panel consider these two offences to be very serious. These were dishonest actions that Ms Mohammed knew were illegal or suspected were illegal.

Mr Adiniji sought to convince the panel that although Ms Mohammed had been found guilty, she was a person that was easily influenced by others and this would particularly apply to her husband.

The panel were concerned that the Registrant is easily influenced into committing illegal acts and this, together with the Judge's closing remarks, that he had found that the Registrant had persistently tried to lie her way out of her predicament has convinced the panel that Ms Mohammed's fitness to practice is impaired.

In coming to this decision, the panel has also taken into account 1.2 of the NMC Code of Professional Conduct that states "As a registered nurse, midwife or specialist community public health nurse, you just: protect and support the health of individual patients and clients, protect and support the health of the wider community, act in such a way that justifies the trust and confidence the public have in you and uphold and enhance the good reputation of the profession," together with 7.1 that states, "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 conduct." It considers that both of these have been breached by the Registrant."

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

"The panel has considered all the evidence in this case, both in relation to the charge and the circumstances of the Registrant. It has also had regard to the submissions of both: the parties, the Legal Assessor's advice and the Indicative Sanctions Guidance.

In coming to its decision, the panel has taken into account the public interest and the Registrant's own interests as it is required to do and has sought to balance these in arriving at a considered and proportionate sanction.

The panel first considered whether to take no action. However, the misconduct is too serious in nature to justify this course.

Next it considered a Caution Order but decided that this course would be insufficient in light of her dishonest actions and the seriousness of the charge.

In light of the nature of the allegations within the charge and the fact that they do not relate to her clinical practice, the panel is of the view that Conditions of Practice would be inappropriate.

Turning to suspension, the panel take the view that the Registrant's conduct is fundamentally incompatible with continuing to be registered with the NMC as there has been a serious departure from the relevant standards of the Code.

The only course left to the panel is to impose a Striking Off Order. When coming to this conclusion the panel weighed the interests of the Public against those of the Registrant. It also took into account that a sanction should not be punitive.

The panel heard that the Registrant was now a single parent with three children to support, she had shown remorse and had not re-offended. She was committed to her profession and now had insight into her shortcomings.

However, the panel consider that her misconduct is a serious departure from the relevant standards as set out in the Code of Professional Conduct. It heard that one of the beliefs of her culture was that a wife should obey her husband in all things. Although the panel are sympathetic to cultural influences, these should not override the law of the land or a professional person's Code of Conduct.

The panel heard that during her trial the Registrant persistently lied to the Court and this demonstrates little insight or understanding as to the importance of honesty. A nurse cares for patients who are vulnerable and where it is essential that she is trustworthy and honest and where external influences do not override her integrity. The panel are not convinced that this would be the case if the Registrant is allowed to continue to practise. Therefore, the public interest must be protected not only so far as protecting standards and patients are concerned but also in order to protect the reputation of the Profession.”

You applied to be restored to the NMC register in December 2014. That panel decided to reject your application for restoration. While that panel determined that you had developed insight into the consequences of your actions, and expressed genuine remorse, it concluded that you were unable to explain what your dishonesty had related to, or what you had lied about. That panel did not doubt your desire to care for and help people, but it did not believe that you understood the gravity of your actions and how they undermined proper standards of behaviour and confidence in the profession.

That panel was of the view that you had not demonstrated that you were a fit and proper person to be restored to the nursing register. That panel took account of the numerous references and testimonials submitted by you. However, it noted that none were able to comment on your suitability to be restored to the NMC register or your abilities as a nurse.

That panel therefore rejected your application to be restored to the NMC register.

Submissions and evidence

This panel has had regard to the submissions of Mr Drinnan, on behalf of the NMC, and the submissions of Dr Akinoshun, on your behalf. It also took account of your sworn evidence as well as the contents of the application for restoration which you submitted to the NMC which included numerous testimonials, a reflective piece and evidence of training.

Mr Drinnan, on behalf of the NMC, outlined the background of the case and the facts that led to the striking-off. He referred this panel to the substantive panel's decision which resulted in your removal from the NMC's register. He also referred this panel to the previous panel's decision which rejected your first application for restoration to the NMC register in December 2014. Mr Drinnan directed the panel to Rule 25 of the Nursing and Midwifery Council Order (Fitness to Practise Rules 2004 ("the Rules")) and reminded the panel of the test set out in Article 33(5) of the Order and the panel's powers set out in Article 33(7) and (8) of the Order.

Mr Drinnan submitted that it was a matter for the panel today to decide whether it was satisfied that you were capable of safe and effective practice and whether you are now a fit and proper person to practise as a Registered Nurse.

In your oral evidence you informed this panel of the events which resulted in your conviction. You stated that you accepted that you were guilty to the offences found proved at Basildon Crown Court ("the Court") in 2007, in that you are guilty for involving yourself in criminal activity, not reporting matters to the police and not accepting your involvement at the Court. You admitted that, at the time of the trial, you knew the money was criminal property and that you were attempting to lie your way out during your oral evidence. You also asserted that you did not know or suspect the money was criminal property until you were arrested and interviewed by the police. Until that point, you were of the belief that your account was being used for 'business purposes' by your ex-husband's friend.

You outlined your current employment as a support worker for people with learning disabilities. You said that you have remained in a healthcare setting to demonstrate your commitment to caring for people. You accepted that your conviction may have caused 'great damage' to public confidence in the nursing profession, and you are ashamed and very remorseful of this. You assured the panel that you will not repeat your actions, should you be permitted to return to practise as a registered nurse.

Since your striking off order, you have furthered your studies, completing a degree in Sociology in 2013 and an MBA in Healthcare in 2018. You explained to the panel that

you had previously made inquiries as to undertaking a Return to Practice course at a university.

Mr Drinnan invited the panel to consider whether you are a fit and proper person to become a member of the nursing profession in the light of all the evidence put before it today, including your oral evidence. He maintained that you are not a fit and proper person to be a nurse. He invited the panel to balance the steps you have taken with the statutory criteria of reinstating your registration. Mr Drinnan submitted that whilst you told the panel that you understood the gravity of your failings, and deviated from the standards expected of a registered nurse, your oral evidence today was inconsistent. He submitted that dishonesty is inherently difficult to remediate, and asked the panel to consider this when making its deliberations.

Mr Drinnan also pointed out on cross examination and submissions that you maintained that you had only become aware of your criminal conduct when the police interviewed you, which was contrary to the jury's findings. He also pointed out that your evidence in relation to the adequacy of the legal advice you had received at the Crown Court and today was inconsistent, and also the discrepancy between today and the last restoration hearing as to your reasons why you wish to return to work as a nurse.

Dr Akinoshun, on your behalf, invited the panel to grant your application for restoration to the register, subject to your successfully completing a Return to Practice course. He reminded the panel of its duty today, in that this is an opportunity for you to demonstrate to the panel that you are a fit and proper person to become a member of the nursing profession. Dr Akinoshun directed the panel to the various documents submitted by you, including positive testimonials, training materials and evidence of your having undertaken an MBA in Healthcare, and a degree in Sociology. He asked that the panel attach significant weight to such documents, as they are demonstrative of someone who has fully accepted and owned her failings. Dr Akinoshun asked that the panel do not consider your conviction in isolation, but rather take into account the significant evidence of remediation presented to it today.

Dr Akinoshun invited the panel to consider that any shortcomings the panel might perceive that you still have be weighed against the fact that you are a single parent, and have experienced some anxiety in the build up to this hearing.

Dr Akinoshun concluded by summarising his submissions, inviting the panel to consider that you are an insightful person, different from that at the time of the charges, and with a clear plan going forward as to how to keep up-to-date and return to safe practice. He submitted that you are willing to undertake further training. Dr Akinoshun further submitted that this has been a salutary experience, and that you know exactly what you must and must not do in the future; you understand that patients and the reputation of the profession can be put at risk if you do not uphold *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015).

The panel 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 meet 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 making of the striking-off order in 2009, you are 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 matters and it is for the panel to use its own independent judgment as to whether it is so satisfied. The legal assessor also referred the panel to the case of *Blakely v General Medical Council [2019] EWHC 905 (Admin)*.

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 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 is able to practise safely and effectively as a nurse.

The panel considered that the charge found proved was serious.

The panel accepted that your oral evidence today was, at times, inconsistent. For example, you remained consistent when explaining the potential consequences of your actions, but struggled to articulate your involvement with the criminal activity, namely at what stage you realised you were engaging in criminal activity. However, the panel did not consider that you were trying to mislead them and readily accepted that you were upset and anxious. The panel considered that your insight into your failings in 2008 has developed markedly. It noted that you have now accepted your failures and acknowledged the potential impact on the public, the NMC and the nursing profession. Furthermore, you provided the panel with examples of what you would do differently now, were such similar situations to arise.

The panel noted the previous panel's decision that you were unable to explain what your dishonesty related to or what you lied about. In your oral evidence today, the panel considered that you gave sincere and genuine evidence, demonstrating that you understand and take responsibility for your previous failings and would operate very differently in the future if faced with these circumstances in the future. The panel also took into account that there is no information before it to suggest that you were not clinically competent as a nurse, prior to your removal from the register. The panel was therefore of the view that there are no issues in relation to public protection in your case.

The panel further considered that the charges found proved leading to your striking off almost 11 years ago were not incompatible with restoration to the register. The panel noted that since you were struck off, you have been working in healthcare roles, as well as volunteering, and that you have made efforts to keep your knowledge up-to-date. The panel noted the certificates of training and other documentation you have provided. The panel determined that it had heard and read evidence to conclude that you are safe

to return to practice as a registered nurse, subsequent to completing an appropriate Return to Practice course.

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 a willingness to return to safe nursing practice.

The panel considered, on the basis of your present levels of insight, remorse and remediation, and upon the successful completion of a Return to Practice course, that it was unlikely that you would, in future, fall below the standards expected of a registered nurse, and you are accordingly now a fit and proper person to practise as a registered nurse. The panel is also satisfied that the public interest in the upholding of standards and maintenance of confidence in the profession has been met by the previous striking-off order.

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. However, the panel determined to allow your application for restoration subject to your completion of a Return to Practice course and 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...”

This decision will be confirmed to you in writing.

That concludes this determination.