

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

**Substantive Order Review Meeting**

**8 April 2020**

Virtual meeting

**Name of registrant:** Elsie Obiageli Iwenofu-Dibor

**NMC PIN:** 72G00750

**Part(s) of the register:** Registered Nurse – sub part 1  
Adult Nursing – 10 July 1972  
Registered Midwife – 30 September 1973

**Area of Registered Address:** England

**Type of Case:** Misconduct

**Panel Members:** Anne Owen (Chair, registrant member)  
Jennifer Childs (Registrant member)  
Sarah Tozzi (Lay member)

**Legal Assessor:** Sanjay Lal

**Panel Secretary:** Rob James

**Order being reviewed:** Suspension Order (6 months)

**Fitness to Practise:** Impaired

**Outcome:** Striking off order to come into effect at the end of 27 May 2020 in accordance with Article 30 (1)

### **Decision on Service of Notice of Meeting:**

The panel considered whether notice of this meeting has been served in accordance with the rules. Rules 11A and 34 of the *Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended* state:

*'11A.(1) Where a meeting is to be held in accordance with rule 10(3), the Conduct and Competence Committee or the Health Committee shall send notice of the meeting to the registrant no later than 28 days before the date the meeting is to be held.*

*34.(3) Any other notice or document to be served on a person under these Rules may be sent by—  
(a) ordinary post'*

The letter of notice of this substantive meeting was sent to Mrs Iwenofu-Dibor's address on the register on 31 January 2020. The panel is satisfied that the notice was sent more than 28 days in advance of this meeting. The panel therefore finds that notice has been served in accordance with the Rules.

The panel also noted that there has been no response from Mrs Iwenofu-Dibor in relation to the notice of this meeting.

### **Decision and reasons on review of the current order:**

The panel decided to impose a striking off order. This order will come into effect at the end of 27 May 2020 in accordance with Article 30 (1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a suspension order, originally imposed by a Fitness to Practise panel on 26 April 2019 for a period of six months. The order was first reviewed on 4 October 2019 and was extended for a further period of six months. The current order is due to expire at the end of 27 May 2020.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

**Charges:**

*That you, Registered Midwife:*

- 1) *On 8 October 2017:*
  - a. *Went into and/or removed medication from Colleague A's handbag;*
  - b. *Showed and/or disclosed the type of medication referred to in charge 1(a) to a colleague;*
- 2) *On 9 October 2017 told one, or more, members of staff that Colleague A was taking medication as referred in charge 1 above;*
- 3) *Your conduct at charge 1 and/or charge 2 was inappropriate and/or in breach of Colleague A's confidentiality*

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

The first reviewing panel determined the following with regard to impairment:

*"Regarding insight, the panel considered that Mrs Iwenofu-Dibor is yet to demonstrate any insight into the charges found proved. She did not accept any wrongdoing for her actions and repeatedly denied the allegations made against her. The panel considered that Mrs Iwenofu-Dibor has still shown no remorse or reflected upon her actions and the impact this has had on Colleague A, patients*

*and the wider public. Further, the panel considered there to be no evidence of remediation or a reflective piece as specifically requested by the original panel.*

*In the light of the above, this panel considered that there remains to be a real risk of repetition should Mrs Iwenofu-Dibor be permitted to practise as a registered midwife without restriction. Therefore, this panel decided that a finding of impairment remains necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel was of the view that a fully informed member of the public would be concerned by Mrs Iwenofu-Dibor's conduct in respect of her failings. It concluded that the public would expect the regulator to take appropriate action to safeguard the public interest elements of this case. The panel therefore determined that a finding of impairment on the grounds of public interest remained required.*

*Having regard to all of the above, the panel was satisfied that Mrs Iwenofu-Dibor's fitness to practise remains impaired."*

The first reviewing panel determined the following with regard to sanction:

*"The panel next considered whether placing conditions of practice on Mrs Iwenofu-Dibor's registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG. Given Mrs Iwenofu-Dibor's lack of insight, lack of remediation or reflection on any of her failings and no current engagement with the regulatory proceedings, the panel determined that in the current circumstances, there are no proportionate or workable conditions which could be formulated which would sufficiently protect the public and uphold the wider public interest. Further, it determined that it*

*would be difficult to formulate conditions of practice which would address the breach of confidentiality issues identified in this case. Accordingly, a conditions of practice order would not be appropriate.*

*The panel next considered a further suspension order. The panel noted that Mrs Iwenofu-Dibor has not engaged with the NMC and given her lack of engagement and lack of insight into the concerns raised, a suspension order would remain an appropriate response in this case, as it would afford Mrs Iwenofu-Dibor a final opportunity to engage and provide some response to the panel's requirements of the last order. The panel determined that Mrs Iwenofu-Dibor's actions involving a breach of confidentiality remained serious and has the potential to bring the nursing profession into disrepute. The panel agreed that a further period of suspension would sufficiently protect the public and satisfy the wider public interest.*

*Accordingly, the panel concluded that a suspension order for a period of six months would remain appropriate and proportionate, given the serious nature of concerns raised and would continue to mark the seriousness of her misconduct. The panel reminded Mrs Iwenofu-Dibor that should she wish to present new information to the NMC before the end of the six month period of suspension, she can request an early review.*

*The panel did consider a striking-off order, but decided that given this was the first review of the suspension order, this would be disproportionate in these circumstances.*

*Before the end of the period of the order, another panel will hold a review hearing or meeting. At the review hearing or meeting, the panel may revoke or confirm the order, or it may replace the order with another order. Mrs Iwenofu-Dibor or the NMC may apply for an early review of the order should circumstances change.*

*Any future reviewing panel may be assisted by:*

- *A reflective piece demonstrating Mrs Iwenofu-Dibor's insight and addressing the seriousness into her breach of confidentiality and the impact this had on Colleague A, patients, and the wider public interest;*
- *Any evidence that Mrs Iwenofu-Dibor has kept up to date with midwifery practice generally.*
- *Up-to-date references and testimonials.*
- *Mrs Iwenofu-Dibor's re-engagement with the NMC would be of benefit to her in these proceedings."*

### **Decision on current fitness to practise**

The panel has considered carefully whether Mrs Iwenofu-Dibor's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. It has noted the decision of the last panel. However, it has exercised its own judgment as to current impairment.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Iwenofu-Dibor's fitness to practise remains impaired.

The panel had regard to the previous review panel's findings and took account of the fact that Mrs Iwenofu-Dibor attended her substantive hearing in April 2019. It would appear that she has not engaged since then.

Prior to this meeting and prior to the previous review which took place in October 2019, Mrs Iwenofu-Dibor has not submitted anything in relation to her insight into her failings or any evidence of an attempt at remediation. The panel has no information even as to whether Mrs Iwenofu-Dibor is currently working in the healthcare sector, or is employed in another role.

The panel concluded that, due to the lack of any evidence to the contrary, Mrs Iwenofu-Dibor has not remediated her failings or made any attempt to do so. It took account of what the previous panel had stated would be helpful to this panel and noted that none of these documents had been provided. It further noted that the NMC wrote to Mrs Iwenofu-Dibor in January 2020 to inform her that she would need to get in touch if she wished to have her case heard before a panel at a hearing or if there were documents she wanted to put before the panel. Mrs Iwenofu-Dibor has not responded to this letter.

The panel therefore concluded that Mrs Iwenofu-Dibor's fitness to practise remains impaired on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mrs Iwenofu-Dibor's fitness to practise remains impaired.

### **Determination on sanction**

Having found Mrs Iwenofu-Dibor's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 29 of the Order. The panel has also taken into account the NMC's Sanctions Guidance (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel also took into account the aggravating and mitigating factors that were determined by the substantive panel.

The panel first considered whether to take no action, and thereby allow the current order to lapse, but concluded that this would be inappropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered whether to impose a caution but concluded that this too would be inappropriate in view of the risk of repetition identified and seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next went on to consider replacing the suspension order with a conditions of practice order. The panel was of the view that no progress or effort is being made by Mrs Iwenofu-Dibor with regard to re-engaging with the NMC and therefore demonstrating a potential willingness to comply with conditions. It determined that in the light of this, conditions of practice remain unworkable.

The panel went on to consider whether to extend the period of the suspension order. The panel noted that Mrs Iwenofu-Dibor was given a clear indication by the previous panel as to the information she could provide to assist this panel and that it was made apparent that she may not be given many more chances to do so. However, she has failed to follow any of the previous panel's recommendations. Mrs Iwenofu-Dibor's failure to engage with her regulator, despite attending the substantive hearing, is a matter of serious concern as it is indicative of an ongoing attitudinal problem. She has failed to demonstrate that she has gained any further insight into the seriousness of her actions and their potential consequences and to demonstrate a willingness to remediate. In all the circumstances, the panel concluded that a further period of suspension would serve no useful purpose.

The panel has borne in mind the serious nature of Mrs Iwenofu-Dibor's misconduct. The panel wishes to stress that it is incumbent upon a registrant whose fitness to practise has been found to be impaired to engage appropriately with their regulator to remediate

their failings. Mrs Iwenofu-Dibor's lack of engagement and insight following her substantive hearing is indicative of an attitudinal problem on her part. Such behaviour is fundamentally incompatible with remaining on the NMC register.

The panel has therefore determined that the only appropriate and proportionate sanction in this case is to replace the current suspension order with a striking-off order. The panel is satisfied that a striking-off order is the only order that would be sufficient to protect the public and the wider public interest in maintaining public confidence in the profession and the regulatory process and to declare and uphold proper standards of conduct and behaviour.

The panel has no detailed up to date information regarding Mrs Iwenofu-Dibor's current personal or professional circumstances. Thus it has no specific information as to the impact on her of a striking-off order. Nevertheless, the panel is satisfied that the public interest outweighs Mrs Iwenofu-Dibor's own interests in this case.

The striking-off order will take effect from the expiry of the current suspension order at the end of 27 May 2020 in accordance with Article 30(1) of the Order. The panel therefore directs the Registrar to strike Mrs Iwenofu-Dibor's name from the NMC register. She may not apply for restoration until a period of five years after the date the striking-off order takes effect.

This decision will be confirmed to Mrs Iwenofu-Dibor in writing.

That concludes this determination.