

Nursing and Midwifery Council
Fitness to Practise Committee
Consensual Panel Determination Hearing

27 February 2020

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

Name of registrant:	Ms Mabel Pereyadia Fadoju
NMC PIN:	08D0903E
Parts of the register:	Registered Nurse – Adult (2009) Registered Health Visitor (2014) Community Practitioner Nurse prescriber (2014)
Area of Registered Address:	England
Type of Case:	Misconduct
Panel Members:	Janet Leonard (Chair, Registrant member) Deborah Hall (Registrant member) June Robertson (Lay member)
Legal Assessor:	Simon Walsh
Panel Secretary:	Leigham Malcolm
Ms Fadoju:	Not present but represented by Mr Richard Anderton, of Hailsham Chambers
Nursing and Midwifery Council:	Represented by Ms Elaine Myers, NMC Case Presenter
Consensual Panel Determination:	Accepted
Facts proved:	1 & 2
Fitness to practise:	Impaired
Sanction:	Caution Order for a period of 5 years

Consensual panel determination

At the outset of this hearing, Ms Myers, on behalf of the Nursing and Midwifery Council (NMC), informed the panel that, with regard to this case, a provisional agreement had been reached between the NMC and Ms Fadoju.

The agreement, which was put before the panel, sets out Ms Fadoju's full admission to the facts alleged in the charges, that Ms Fadoju's actions amounted to misconduct, and that Ms Fadoju's fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a caution order for a period of five years.

The panel has considered the provisional agreement reached by the parties.

That provisional agreement reads as follows:

Agreement

The Nursing and Midwifery Council and Mrs Mabel Fadoju, PIN 08D0903E ("the parties") agree as follows:

CHARGES

1. Mrs Fadoju admits the following charges:

That you, a registered nurse, on a date between 17 December 2014 and 28 December 2014:

- 1) Submitted a falsified reference to the Whittington Health NHS Trust in the name of a person who had not written the reference in respect of Mr 1 and in support of his application for employment with the Trust

2) Your actions as set out in charge 1 were dishonest in that you deliberately sought to mislead Whittington Health NHS Trust by representing that the reference had been completed by an individual who had worked collaboratively with Mr 1 and who would have been expected to have knowledge of the strengths of his clinical practice when in fact you knew that this was not the case.

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

The Agreed Facts

1. Mrs Fadoju appears on the register of nurses and midwives maintained by the NMC as a Registered Nurse – Adult. She registered on 15 April 2009. Mrs Fadoju has augmented her knowledge and also appears on the register as a Community Practitioner Nurse Prescriber (26 April 2014) and a Registered Health Visitor (05 December 2014).
2. The NMC received a referral from NMC employee and lawyer Ms 3, on 24 October 2017. At the material time, the Registrant was employed as a Nurse at North East London NHS Foundation Trust. She remains in their employ currently.
3. The circumstances giving rise to the referral are as follows. Ms 3 was presenting a Nursing and Midwifery Council (“NMC”) regulatory case in respect of the Registrant’s husband, Mr 1, who is also a Registered Nurse. During the course of the evidence, it became apparent that the Registrant had been instrumental in the provision of a false reference for Mr 1 to the Whittington Hospital, in the name of a Registrant colleague, Ms 2. Mrs 2 is also a registered nurse and was an NMC witness in Mr 1’s case.

4. Mrs 2 gave evidence to the panel that she had provided the Registrant with the login and password for her NHS email address. In addition, Mrs 2 provided corroborating evidence in the form of screenshots of her WhatsApp conversation with the Registrant which contained the provision of the password and login details and copies of duty rotas from St Bartholemew's Hospital covering the relevant period when the login details were given.

5. The falsified reference purported to show that Mrs 2 and Mr 1 had worked alongside one another and that she was conversant with his clinical practice when in fact, Mrs 2 had never been employed in the same medical establishment as Mr 1 and had no knowledge of his clinical practice.

6. On the basis of the falsified reference, Mr 1 secured the role that he had applied for at the Whittington Hospital. His employment was induced either wholly or in part by the submission of the reference.

7. Mrs Fadoju admits that the facts of the charge and that they amount to misconduct because she carried out an act that falls 'short of what would be proper in the circumstances,' as stated by Lord Clyde in *Roynance v General Medical Council (No. 2)* [2000] 1 AC 311. Moreover, the Registrant accepts that her actions breached the following paragraphs of the 2018 NMC Code of Conduct:

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

20.4 keep to the laws of the country in which you are practising

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times

21 Uphold your position as a registered nurse, midwife or nursing associate

8. Mrs Fadoju admits that her fitness to practise is impaired by reason of her misconduct because she has dishonestly submitted a falsified reference with an intention to mislead.

9. The Registrant has engaged with the NMC throughout the duration of the investigation, admitting the charges against her, misconduct and impairment. These admissions have been made on an unconditional basis from the Case Examiner stage. Admissions were also made and documented on the Case Management Form.

10. Due to the nature of the regulatory concern, this is both a public interest and a public protection case. The balance falls largely in favour of public interest with a minor public protection element. The Registrant's failure to observe the Code of Conduct and dishonest misconduct has the potential to undermine public confidence in the professions.

11. The Registrant has practised for over 10 years with an otherwise unblemished career record. She has not been the subject of any previous regulatory or disciplinary proceedings during that decade. The regulatory concern relates to one incident at her place of work and is unrelated to the Registrant's

clinical practice. She has provided two reflective pieces in which she has expressed deep remorse, demonstrated insight, accepted full responsibility and apologised unreservedly for her conduct.

12. The aggravating features in this case are that the Mrs Fadoju was motivated by indirect financial gain, since her husband was enriched financially by the employment role and use of an unknowing colleague's email to facilitate an inducement to the Whittington Hospital to accept Mr 1's reference as genuine.

13. This is balanced against the mitigating factors of the Registrant's reflective pieces demonstrating full insight, her full and unreserved remorse and apology, remediation, multiple positive character and practice-related references/testimonials provided by individuals aware that she was facing regulatory proceedings in respect of her dishonest conduct.

14. ... [Private]

15. Four character references attesting to the fact that Mrs Fadoju's misconduct was inconsistent with her usual honest and exemplary character, have been supplied to the NMC. A further positive and detailed character reference and testimonial was supplied by Mrs Fadoju's employer, outlining her candour regarding her misconduct, excellence in her clinical practice, her dependable nature and that she is well-liked and respected among her colleagues.

16. Since the incident, Mrs Fadoju has... [Private]. She has completed face-to-face training in Fraud Prevention, annually updates her training on information governance and data quality online and has completed Conflict Resolution training. Further remediation has been undertaken by reading and meditating on the content of the Code and Nursing Times articles regarding dishonesty and lack of integrity.

17. Mrs Fadoju has also practised for a further year without any further regulatory history or the institution of any disciplinary proceedings against her.

18. In the light of the above it is agreed that the risk of Mrs Fadoju repeating her misconduct is limited. It can properly be considered no greater than the risk of a professional without her fitness to practise history doing so.

19. Taking the aggravating and mitigating factors into account, the appropriate sanction in this case is a Caution Order for a period of 5 years.

20. The charge that the Registrant has admitted is serious but mitigated by her apology, insight, remediation, acceptance of the regulatory concern, remediation and positive testimonials. The serious nature of the concern with associated dishonesty makes no further action inappropriate. However, due to significant mitigation and in recognition of her reported competence as a nurse, a 5 year Caution Order would be an appropriate disposal. A Conditions of Practice Order is not appropriate as the regulatory concern does not relate to her clinical practice and there are no workable conditions that would be appropriate in respect of an attitudinal regulatory concern. A Suspension Order would be punitive in its effect as there is no suggestion that the Registrant poses a significant risk of repetition or any risk of harm to the public. There is no need for her practice to be restricted.

21. A Striking-Off Order would be disproportionate as the Registrant has admitted the charge and the charge admitted does not warrant such a sanction, when a Caution Order would be sufficient to mark the misconduct, given the length of time that has elapsed since the misconduct and the lack of repetition.

22. The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges set out at section 1 above, and the agreed statement of facts set out at section 2 above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.

Here ends the provision agreement between the NMC and Ms Fadoju. The agreement was signed by Ms Fadoju on 17 February 2020 and by the NMC on 27 February 2020.

Decision and reasons on the consensual panel determination

The panel decided to accept the agreement in its entirety.

The panel heard and accepted the legal assessor's advice. He referred the panel to the NMC's Sanctions Guidance (SG) and to the NMC's guidance on Consensual Panel Determinations. He reminded the panel that they could accept, amend or outright reject the provisional agreement reached between the NMC and Ms Fadoju. Further, the panel should consider whether the provisional agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Ms Fadoju admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Ms Fadoju's admission as set out in the signed provisional agreement before the panel.

The panel then went on to consider whether Ms Fadoju's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Ms Fadoju, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel had regard to paragraph 7 of the provisional agreement, which sets out Ms Fadoju's acceptance that her admitted dishonesty amounts to misconduct as it falls 'short of what would be proper in the circumstances' and breaches a number of parts of the NMC's code of conduct.

The panel also had regard to Ms Fadoju's reflective statement dated 1 October 2019. Within her reflective statement Ms Fadoju takes full responsibility for her misconduct stating:

'I take full responsibility for the failure to act with honesty and integrity by providing fraudulent reference, and I cannot apologise enough for my action. I consider myself to be a good nurse with knowledge-based skills, but I made a poor error of judgement...

...The whole incident has opened my eyes in the area of trust and promoting professionalism as a nurse and its lead me to learn a lot, but I do believe this is a lesson I will continue to learn for the rest of my life to make me a better nurse. I acknowledge that I am professionally accountable and responsible for my actions and omissions in my practice, hence my full acknowledgement of my own mistakes on this matter...'

The panel was impressed by Ms Fadoju's full and comprehensive reflection. It took account of the context in which Ms Fadoju's dishonesty occurred, and the sensitive and personal factors that motivated her at the time, all detailed within her reflective statement. The panel considered Ms Fadoju's reflective statement demonstrated regret and remorse, and it determined that she had taken full responsibility for her dishonesty and misconduct.

The panel took account of the testimonial of the Clinical Lead at North East London Foundation Trust, Ms Fadoju's current clinical supervisor and mentor, dated 2 October 2019. The clinical supervisor stated that Ms Fadoju is an honest, hardworking, punctual, flexible professional and a joy to have as part of the team. The clinical supervisor and Ms Fadoju have met regularly for supervision sessions since the incident in question and have formally reflected both on the misconduct and the circumstances that gave rise to the misconduct. The testimonial further stated:

'I can confirm that she knows that this MUST NEVER HAPPEN AGAIN. Mabel is very sorry, she has cried her eyes out, she is sad, she has reflected and she said that she never allow personal stress to overshadow her. She has been told to

seek help anytime she is under pressure, and myself and management team will do our best to support her [sic]...

...In my professional opinion, based on the amount of reflection done with Mabel and the fact that she is very sorry, she understands the implications of her actions, Mabel is asking for a second chance. As her mentor, I am also pleading that she should please be given a second chance, so that she can continue the vital job of health visiting, of which we are very short of staff at the moment and now we are begging retired health visitors to come and work for us as Agency staff, which costs the trust a lot of money. We are hoping that we can retain good health visitors like Mabel...

...I am happy to continue to support Mabel in her professional journey...'

The panel was of the view that the positive testimonial provided by Ms Fadoju's supervisor was congruent with her own reflective statement and evidenced full insight into the severity of misconduct. The panel also took into account several other references which speak to Ms Fadoju's character and as well as her nursing practice, all of which describe her as an honest, caring, hardworking and compassionate nurse, who is always keen to help others.

The panel noted that Ms Fadoju has undertaken face-to-face fraud prevention training, online information governance and data quality training, and conflict resolution training. Ms Fadoju has also sought counselling and other support to address the stressors in her personal life.

The panel determined that, on the basis of the information before it, including Ms Fadoju's demonstrable insight into her dishonesty and her remediation, there was a very low risk of repetition. However, bearing in mind the seriousness of dishonest conduct, and its impact on the reputation of the nursing profession, the panel decided that Ms Fadoju's fitness to practice is impaired as stated within the provisional

agreement. The panel considered a finding of impairment necessary to mark the public interest in this case and to maintain confidence in the professions and the NMC as regulator.

Having found Ms Fadoju's fitness to practise currently impaired the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate. The purpose of any sanction is not intended to be punitive even though it may have a punitive effect. The panel had careful regard to the SG. Decision on sanction is a matter for the panel exercising its own independent judgement.

The panel determined that taking no further action would not reflect the seriousness of the misconduct nor would it address the public interest.

The panel next considered a caution order and reached the view that in Ms Fadoju's case it would be the appropriate response. The effect of this order is that Ms Fadoju's name on the NMC register will show that she is subject to a caution order and anyone who enquires about her registration will be informed of this order.

The panel reached the view that whilst dishonesty is always serious, and generally difficult to remediate, in Ms Fadoju's case it was a one-off incident which occurred in her private life and not her clinical practice. The panel determined that the aggravating factors in this case have been robustly mitigated and also gave weight to full Ms Fadoju's and frank admissions at the outset.

Caution orders may be made for periods from 1 to 5 years. The panel considered that a caution order for a period of 5 years would reflect the seriousness of Ms Fadoju's dishonesty, maintain public confidence in the nursing profession and declare and uphold proper standards of conduct and behaviour.

The panel considered a conditions of practice order and higher sanctions. However, it endorsed paragraphs 20 and 21 of the provisional agreement and determined that a conditions of practice order would not be appropriate as the regulatory concern does not relate to Ms Fadoju's clinical practice. It also determined that both suspension and striking-off orders would be disproportionate as Ms Fadoju has admitted to the charge and her misconduct does not warrant such a sanctions.

The panel also bore in mind that it is in the public interest to keep an otherwise good and competent nurse on the register.

For these reasons, the panel accepted the proposed agreement in its entirety.