

Nursing and Midwifery Council
Fitness to Practise Committee
Restoration Hearing
10 September 2020
[Virtual Hearing]

Name: Blessing Olaniyi

NMC PIN: 10F0248E

Part of the register: Registered Nurse – Adult Nursing

Area of Registered Address: England

Panel Members: Caroline Healy (Chair – Registrant member)
Melanie Lumbers (Registrant member)
Alice Rickard (Lay member)

Legal Assessor: Fiona Barnett

Panel Secretary: Vicky Green

Mrs Blessing: Present and represented by Catherine Stock,
Counsel

Nursing and Midwifery Council: Represented by Assad Badruddin, Case
Presenter

Outcome: Application granted subject to successful
completion of an accredited return to practice
course

This is a hearing of your first application for restoration to the Nursing and Midwifery Council (NMC) register. A panel of the Conduct and Competence Committee directed on 5 November 2012 that your name be removed from the NMC 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 your strike-off.

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) of the Order, and it may make a conditions of practice order.

The panel has considered your application for restoration to the NMC's Register.

Background

The panel at the substantive meeting on 5 November 2012 found the following charges proved:

That you, a Registered Nurse:

- 1. On 27 October 2011, at Woolwich Crown Court, were convicted of two counts of dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk;*
- 2. With regard to (1) above, were subsequently sentenced to 10 months imprisonment suspended for 24 months, ordered to remain at your home address between 10pm-6am with electronic monitoring for 4 months, and required to carry out unpaid work for 200 hours before 23 November 2012;*

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

The substantive panel determined the following with regard to impairment:

'Ms Olaniyi has been convicted of two counts of dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk.

Ms Olaniyi was subsequently sentenced to 10 months' imprisonment suspended for 24 months, ordered to remain at her home address between 10pm and 6am with electronic monitoring for 4 months and required to carry out unpaid work for 200 hours before 23 November 2012.

The panel has considered on the basis of Ms Olaniyi's conviction whether her fitness to practise is now impaired. It has had regard to all the evidence.

The panel has exercised its own judgment in determining the issues before it, and in this context it has considered the need for appropriate weight to be given to the protection of the public, the maintenance of public confidence in the profession, and the upholding of proper standards of conduct and behaviour.

The panel has had regard to the returned Case Management Form dated, 7 September 2012. In the returned Case Management Form, Ms Olaniyi admits that her fitness to practice is currently impaired by reason of her conviction

The panel considered whether Ms Olaniyi's conviction is easily remediable; whether it has been remedied and whether it is likely to be repeated. The panel had regard to all the circumstances of the case and also to the issue of Ms Olaniyi's insight in respect of her conviction.

The panel notes that Ms Olaniyi pleaded guilty. The conviction involves two separate instances of dishonesty, rather than an isolated incident. The panel has

not had the benefit of any current references or testimonials to assist in determining if Ms Olaniyi has any current insight into her actions. The panel has no information to indicate if she is complying with her sentence or community service order or of any steps she has taken to remediate her failings. The panel notes that Ms Olaniyi communicated in the returned Case Management Form that she has stated that she is not employed by any person or organization.

The panel concluded that Ms Olaniyi has not remedied her conduct, and that her conviction relates to dishonesty. The panel is of the view that dishonesty is a serious matter and by its very nature is difficult to remedy.

The panel further had regard to the question of whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case. The panel has no doubt that it would.

For all the reasons outlined above, the panel has determined that Ms Olaniyi's fitness to practise is currently impaired by reason of her conviction.'

The substantive panel determined the following with regard to sanction:

'In reaching its decision on sanction, the panel has considered all the evidence that has been placed before it. It has exercised its own independent judgement.

The panel has taken account of the Council's Indicative Sanctions Guidance and has had regard to the case of Parkinson v Nursing and Midwifery Council [2010] EWHC 1898 (Admin). The panel has had regard to the public interest, which includes the protection of the public, the maintenance of confidence in the

profession and in the NMC. It has applied the principle of proportionality, weighing the interests of the public with Ms Olaniyi's interests, and has taken into account the mitigating and aggravating factors in the case.

The panel has reminded itself that the purpose of a sanction is not to be punitive, though it may have a punitive effect. The purpose of a sanction is to protect the public and to meet the wider public interest in upholding proper standards and the reputation of the profession.

The panel first considered taking no action and gave consideration to paragraphs 60-62 of the Indicative Sanctions Guidance. Ms Olaniyi's conviction requires a sanction to mark a serious departure from the professional standards set out within the 2008 NMC Code of Professional Conduct: Standards for Conduct, Performance and Ethics and a failure to uphold proper standards and to maintain the reputation of the profession.

The panel next considered a Caution Order and gave consideration to paragraphs 63-65 of the Indicative Sanctions Guidance. The panel noted that a Caution Order would not impose any restriction on Ms Olaniyi's ability to practise. In view of the serious nature of Ms Olaniyi's conviction, the panel has concluded that the imposition of a Caution Order would not be sufficient to satisfy the public interest in this case. The panel accordingly determined that a Caution Order would be inadequate and inappropriate.

The panel next considered a Conditions of Practice Order and considered paragraphs 66, 67 and 68 of the Indicative Sanctions Guidance. The panel is of the view that the nature of Ms Olaniyi's conviction could not be addressed by such an order. The panel has no information regarding Ms Olaniyi's current personal or employment circumstances or her willingness or ability to comply with any conditions that might be formulated. In any event, the panel is not

satisfied that conditions of practice would adequately reflect the seriousness of this case or would appropriately address dishonesty. Further, the panel considered that there were no conditions of practice which would meet the criteria of being appropriate, proportionate, workable and measurable.

The panel next considered a Suspension Order and considered paragraphs 69, 70 and 71 of the Indicative Sanctions Guidance. Ms Olaniyi's conviction relates to her defrauding the NHS of £45 731. The panel is of the view that Ms Olaniyi's conviction shows that she lacks the honesty and integrity which are fundamental tenets of the nursing profession. The panel has no evidence to show that Ms Olaniyi has shown insight into her conviction. The panel notes that each was not an isolated incident. The panel has no information of any steps that Ms Olaniyi has taken to remediate her failings.

The panel is not satisfied that a Suspension Order would sufficiently mark the seriousness of Ms Olaniyi's conviction, nor would it maintain public confidence in the nursing and midwifery profession, nor would it serve to declare and uphold proper standards of conduct and performance. The panel has concluded that Ms Olaniyi dishonesty is fundamentally incompatible with her continued registration as a nurse.

In all the circumstances the panel has concluded that a Striking Off order is the only appropriate and proportionate response to Ms Olaniyi's conviction.

Accordingly the panel has determined to instruct the registrar to strike Ms Olaniyi from the register.'

Submissions and evidence

This panel had regard to the NMC bundle and the additional on table documents which included the following:

- Your reflection on professional boundaries course;
- Certificate from professional boundaries course;
- Offer of work within a volunteer role;
- CPD documents including reflective statements;
- PNC record dated 7 September 2020;
- A letter from the Home Office;
- Evidence of a conditional offer of employment as a care worker for Eleanor Healthcare Group dated 10 August 2020;
- Job description of a care worker at Eleanor Healthcare Group;
- A reference from your previous employer.

The panel also had regard to the submissions made by Mr Badruddin, on behalf of the NMC and by Ms Stock on your behalf.

Mr Badruddin outlined the background of the case and the facts that led to your striking-off order. Mr Badruddin drew the panel's attention to the substantive panel's decision which resulted in your removal from the NMC's Register. He also referred the panel to the PNC record which confirms that you successfully completed your sentence without breach and that you have not received any further criminal convictions. Mr Badruddin also referred the panel to the letter from the Home Office in which it is confirmed that you have leave to remain within the UK until 2022.

Mr Badruddin drew the panel's attention to your bundle of documents. He referred the panel to the case of *General Medical Council v Chandra [2018] EWCA Civ 1898* and the factors to be taken into account at a restoration hearing. Mr Badruddin submitted that it

is a matter for the panel to determine whether you are now a fit and proper person to be restored to the NMC Register. He submitted that the panel should consider whether you have demonstrated sufficient insight into your dishonest conduct, and consider whether you have remediated the concerns which led to your striking-off order.

Ms Stock, on your behalf, drew the panel's attention to your bundle of documents. She submitted that you have full insight into the dishonest conduct that led to your convictions. You pleaded guilty to both charges and you carried out your sentence without breach. In completing your sentence, Ms Stock submitted that you gained a high level of insight into your dishonest conduct. She submitted that you would never act in a dishonest way in the future. Ms Stock informed the panel that your conviction has been spent for almost three years. Ms Stock submitted that your convictions are not incompatible with you being able to return to the NMC Register.

Ms Stock submitted that the measure of someone's character is what they do next after they may have found themselves in a difficult position. You completed your sentence without breach and turned your life around significantly. You have undertaken a huge amount of work on your CPD and kept up to date with changes in the nursing profession. You know what is expected of a registered nurse in respect of professional ethics and the duty of candour.

Ms Stock told the panel that you secured a voluntary role in a care home setting in December, where you completed an induction course and undertook two shifts. Unfortunately, due to the COVID-19 pandemic, this voluntary placement could no longer be supported. Ms Stock informed the panel that you have recently received a conditional offer of employment as a care worker for Eleanor Healthcare Group. Ms Stock told the panel that if your application is granted today then you would undertake a return to practice course due to the amount of time that you have not practised as a registered nurse.

Ms Stock referred the panel to a number of references. She drew the panel's attention to a reference from your previous employer - Texcel Technology dated 10 September 2020, in which your ex line manager stated the following:

' I worked very closely with Blessing Olaniyi April 2018 till July 24th 2020. - . During the years that she has worked at Texcel Technology as a Surface Mount Technician, Blessing has excelled in this role, exhibiting one of the highest levels of Honesty, integrity and productivity. Blessing possesses the ultimate "can do" attitude while taking on all tasks with a positive energy and a smile. Her upbeat personality and engaging personal style enable her to interact effectively with clients and staff. She is very well organised and trustworthy.

[PRIVATE] but couldn't return as she wanted a part time role and hours did not suit her. I am aware that she is planning to return back to nursing and this email will be used at the NMC for her application and I wish her best of luck.

Please feel free to contact me if you have any questions about this outstanding young woman.'

In her closing submissions Ms Stock invited the panel to grant your application for restoration to the NMC Register. She submitted that you have demonstrated remorse and gained full insight into your dishonest actions. She further submitted that you have done all that you can to demonstrate that you have fully remediated the dishonesty. Ms Stock submitted that you have not repeated the conduct since your convictions. Ms Stock therefore invited the panel to find that you are a fit and proper person and to grant your application for restoration today.

The panel accepted the advice of the legal assessor.

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 noted that dishonesty is often more difficult to remediate than clinical concerns; albeit not impossible to do so.

The panel took into account all of the evidence provided for the purposes of this hearing, the panel considered you to have worked hard to gain full insight into your dishonesty and to demonstrate that you have remediated your dishonest conduct. The panel had particular regard to the fact that you completed your sentence without breach and the content of the objective reference from your previous employer who described you as:

‘...exhibiting one of the highest levels of Honesty, integrity and productivity.’

The panel also had regard to and was encouraged by your lengthy reflection, successful completion of relevant training courses and CPD.

Having regard to all the above, the panel was of the view that there was not much more you could have done in demonstrating that you are a “*fit and proper person*”, to be permitted to return to the NMC Register. The panel did not consider there to be a real risk of repetition of the misconduct identified in the particular circumstances of this case and therefore concluded that you are capable of safe and effective practise.

The panel also had regard to the public interest considerations in this case, and determined that it would now be in the public interest for you to return to the NMC Register, with patients being given the benefit of your demonstrable commitment to the nursing profession. The panel considered that the public interest has been marked by the sentence you have served and the sanction imposed by the substantive panel.

In determining to grant your application for restoration, the panel bore in mind that you have not practised as a registered nurse for a significant period of time, 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 successful completion of a Return to Practice course and paying the prescribed fee.

In all the circumstances the panel concluded that you should be restored to the NMC Register, subject to you satisfying the NMC's requirements as to a return to practice course.

The panel did consider whether it was appropriate to impose a conditions of practice order but concluded that it was not appropriate in this case as there are no clinical concerns.

That concludes this determination.

This decision will be confirmed to you in writing.