

**Nursing and Midwifery Council**

**Fitness to Practise Committee**

**Substantive Meeting**

**24 – 25 February 2022**

Virtual Hearing

<b>Name of registrant:</b>	Mr Ibrahim Abolaji Abdulkareem
<b>NMC PIN:</b>	16H0448E
<b>Part(s) of the register:</b>	RNLD (2016)
<b>Area of registered address:</b>	Wiltshire
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Darren Shenton (Chair, lay member) Pauline Esson (Registrant member) Claire Cheetham (Lay member)
<b>Legal Assessor:</b>	Angela Hughes
<b>Panel Secretary:</b>	Leigham Malcolm
<b>Facts proved:</b>	Charges 1, 2 & 3
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking-Off Order
<b>Interim order:</b>	Interim Suspension Order (18 months)

## **Decision and reasons on service of Notice of Meeting**

The panel was informed that the Notice of Meeting had been sent to Mr Abdulkareem's registered email address on 17 January 2022. The panel took into account that the Notice of Meeting provided details of the allegations as well as the dates and other details for the substantive meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Abdulkareem has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## **Details of charge**

*That you, a registered nurse:*

- 1. Were convicted on 9 December 2020 at the Crown Court at Swindon of dishonestly making false representation to make a gain for self/another or cause loss to other/expose other to risk contrary to section 2 of the Fraud Act 2006.*
  
- 2. On 13 August 2018, used a counterfeit passport to gain employment with Avon and Wiltshire Mental Health Partnership NHS Trust;*
  
- 3. Your actions at charge 2 were dishonest in that you intended anyone viewing the counterfeit passport to believe it was genuine when you knew it was not;*

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

## Background

On 26 July 2019 the Nursing and Midwifery Council (NMC) received a referral from Avon and Wiltshire Mental Health Partnership NHS Trust alleging in relation to Mr Abdulkareem's nursing practice. The referral raised concerns around Mr Abdulkareem's identity and alleged that he had used false documentation to gain employment. The matter was investigated by the police and Mr Abdulkareem was subsequently convicted on 9 December 2020 of an offence under Section 2 of the Fraud Act 2006, as set out in the regulatory charges above.

## Decision and reasons on facts

At the outset of the meeting, the panel took account of a letter dated 24 June 2021 from the Royal College of Nursing in which Mr Abdulkareem accepted the regulatory concerns identified by the NMC.

Following Mr Abdulkareem's arrest he appeared at Swindon Crown Court on 9 December 2020 where he pleaded guilty to the criminal offence outlined in Charge 1 and was sentenced to a community sentence of unpaid work for 200 hours to be completed before 9 December 2021.

The panel was provided with a copy of the certificate of conviction, the panel found the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.—** (2) *Where a registrant has been convicted of a criminal offence—*
- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
  - (b) *the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) *The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with*

*paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

The circumstances which lead to the criminal conviction above can be summarised as the use by Mr Abdulkareem of a fake passport when he applied for employment at the Avon and Wiltshire Mental Health Partnership NHS Trust (the Trust). This fraudulent act led to a period of employment that lasted over two years, until an investigation by the immigration authorities identified Mr Abdulkareem's activities. The Trust later confirmed that had the true nature of Mr Abdulkareem's application been known to it at the time, then it would not have offered him employment.

In respect of the dishonesty the panel considered the two stage test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. The panel first considered what Mr Abdulkareem's state of knowledge or belief was as to the facts, when he used a counterfeit passport to gain employment.

In reaching its decision on the facts the panel had regard to the admissions made by Mr Abdulkareem in his communication with the NMC and the guilty plea that he tendered at the Crown Court which led to his conviction. Additionally, Mr Abdulkareem admits in his reflective piece that he knew that what he did in making use of a counterfeit passport to support his application for employment was dishonest.

The panel concluded Mr Abdulkareem undertook the actions that led to Charge 2 in the full knowledge that what he was doing was dishonest.

The panel next considered whether Mr Abdulkareem's actions, in light of that state of mind, were dishonest by the standards of ordinary decent people. The panel was clear that a fully informed member of the public would consider the actions that were taken by Mr Abdulkareem to be dishonest.

The panel was therefore satisfied that Mr Abdulkareem's actions in relation to Charge 2 amount to dishonesty.

In light of all of the above the panel determined that the facts were proved.

## **Decision and reasons on misconduct**

The panel then moved on to consider whether the facts found proved in respect of Charges 2 & 3 amount to misconduct and, if so, whether Mr Abdulkareem's fitness to practise is currently impaired.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Abdulkareem's fitness to practise is currently impaired as a result of that misconduct.

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2) [2000] 1 AC 311* which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*' The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments which included *Nandi v General Medical Council [2004] EWHC 2317 (Admin)*, and *General Medical Council v Meadow [2007] QB 462 (Admin)*.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code. The panel was of the view that Mr Abdulkareem's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Abdulkareem's actions amounted to a breach of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) (the Code), specifically:

*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...*

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel considered that other members of the nursing profession would find Mr Abdulkareem's misconduct and conviction deplorable

The panel found that Mr Abdulkareem's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel then considered whether, on the basis of the facts found proved, Mr Abdulkareem's fitness to practise is currently impaired by reason of his conviction and/or his misconduct. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel bore in mind the NMC's overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.

The panel accepted the advice of the legal assessor. It also took account of the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and act with honesty and integrity. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74, she said:

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel bore in mind that there is no evidence that patients were harmed or put at risk of harm. The panel had sight of evidence indicating that Mr Abdulkareem was considered to be a conscientious and competent nurse. However, it did consider that his conviction and misconduct breached fundamental tenets of trust, honesty and integrity and therefore brought its reputation into disrepute.

The panel noted that Mr Abdulkareem pleaded guilty to dishonestly making false representation to make a gain for self/another or cause loss to other/expose other to risk contrary to section 2 of the Fraud Act 2006 at Swindon Crown Court on 9 December 2020. It considered that other members of the nursing profession would find Mr Abdulkareem's dishonesty and conviction deplorable. The panel also noted that in the RCN's letter dated 24 June 2021 Mr Abdulkareem accepted the NMC's regulatory concerns.

From the evidence before it, the panel considered Mr Abdulkareem's particular deception to be premeditated, sophisticated and longstanding. The panel bore in mind that dishonesty is difficult to remediate and it was of the view that the insight Mr Abdulkareem demonstrated in his reflective statement was extremely limited, in particular there was little consideration demonstrated into the impact his actions would have on his colleagues, patients, the wider public and the reputation of the nursing profession. Furthermore, there was no evidence of remediation.

The panel bore in mind that the overarching objectives of the NMC which include protecting the wider public interest, promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

In respect of the case of Grant, the panel considered limbs b, c and d to be engaged. In view of the extremely limited insight demonstrated in Mr Abdulkareem's reflective statement dated 24 June 2021, and lack of remediation, the panel was of the view that there remained a risk of repetition of the conduct found proven. The panel therefore decided that a finding of impairment is necessary on the grounds of public interest alone.

Having regard to all of the above, the panel was satisfied that Mr Abdulkareem's fitness to practise is currently impaired by reasons of his conviction and misconduct.

## **Decision and reasons on sanction**

Having found Mr Abdulkareem'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 and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the Sanctions Guidance (SG). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the Registrar to strike Mr Abdulkareem's name from the Register. The effect of this order is that the NMC Register will show that Mr Abdulkareem has been struck-off the Register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the SG published by the NMC. The panel accepted the advice of the legal assessor.

The panel took into account the following aggravating features:

- The seriousness of Mr Abdulkareem's dishonesty;
- The premeditated and sophisticated nature of Mr Abdulkareem's dishonesty;
- Mr Abdulkareem's longstanding deception;
- Mr Abdulkareem's dishonesty was for his own personal gain;
- The extremely limited of insight and lack of any remediation.

In terms of mitigation, the panel noted that Mr Abdulkareem made early admissions in the Crown Court as well as outlining some difficult personal family circumstances at the time of the events. However, he provided no supporting evidence for such circumstances to the panel. In any event, the panel determined that these factors did little to reduce the seriousness of the conviction and dishonesty.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the issue of dishonesty, an order that does not restrict Mr Abdulkareem's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Abdulkareem's conviction and misconduct were not at the lower end of the spectrum and that a caution order would be inappropriate in view of the 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 considered whether placing conditions of practice on Mr Abdulkareem's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the dishonest nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Abdulkareem's registration would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. It considered that the following points within the SG were engaged in this particular case:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel determined that the initial act of dishonesty in making use of the counterfeit passport was compounded by the fraud that was operated over a substantial period of time, and therefore could not be described as a single incident.

The panel considered that the premeditation that perpetuated this sophisticated act of dishonesty was evidence of a harmful attitudinal problem, and a particularly serious breach of the fundamental tenets of the profession.

Having found that Mr Abdulkareem's insight was extremely limited, and having produced no evidence of remediation, the panel considered that there was a significant risk of this behaviour being repeated.

The panel determined, for the reasons above, that a suspension order would not be a sufficient to mark the serious nature of the case, maintain standards within the nursing profession, and is therefore not appropriate.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mr Abdulkareem's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Abdulkareem's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered Mr Abdulkareem's premeditated, sophisticated and longstanding deception to be indicative of a serious attitudinal issue.

The panel took account of the sentencing remarks made at the time of conviction on 9 December 2020:

*“I do not propose to go through the facts of this case again which are not straightforward but which Mr Threlfall very helpfully outlined to me. This is an unusual case to say the least. Applying the fraud guidelines that seem to be the starting point, you by false representation obtained a substantial amount of money, £60,000 over three years from the Avon and Wiltshire National Health Service Trust. Had they known of your immigration status, that you were not entitled to work in this country, they would not, I am sure, have employed you.*

*Turning to those guidelines, £60,000 places you in Category 3 so far as harm is concerned. With regard to culpability, there is one Category A factor arguably present. There was a fraud that operated over a substantial period of time, three years, and one in which there was some if not significant planning to obtain the documents, whatever they may have been and whether you saw them or not, which enabled you to work in the UK. It does not seem to me that the argument that the NHS would have employed someone else and paid them a salary equivalent to £60,000 over three years is attractive. Had Avon and Wiltshire NHS Trust known of the circumstances they simply would not have given you that opportunity.”*

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Abdulkareem’s actions in bringing the profession into disrepute by adversely affecting the public’s view of how a registered nurse should conduct himself, the panel has concluded that a striking-off order is the only sanction which would be sufficient to maintain standards and confidence in the nursing profession.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mr Abdulkareem in writing.

### **Decision and reasons on interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Abdulkareem's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is otherwise in the public interest. Although the panel bore in mind that a decision to impose an interim order on public interest grounds alone has a high bar, it had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months due to allow sufficient time for any potential appeal.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after Mr Abdulkareem is sent the decision of this hearing in writing.

That concludes this determination.