

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

**Substantive Meeting  
Thursday 28 July 2022**

Virtual Meeting

<b>Name of registrant:</b>	<b>Catherine Katongole</b>
<b>NMC PIN:</b>	19A1533E
<b>Part(s) of the register:</b>	Registered Nurse – Sub part 1 Adult Nursing – 25 April 2020
<b>Relevant Location:</b>	Northamptonshire
<b>Type of case:</b>	Conviction
<b>Panel members:</b>	Mary Idowu (Chair, lay member) Kathryn Smith (Registrant member) Tracey Chamberlain (Registrant member)
<b>Legal Assessor:</b>	Ian Ashford-Thom
<b>Hearings Coordinator:</b>	Catherine Acevedo
<b>Facts proved:</b>	Charge 1
<b>Facts not proved:</b>	None
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking-off order
<b>Interim order:</b>	Interim suspension order

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

The panel was informed at the start of this meeting that Miss Katongole was not in attendance and that the Notice of Meeting had been sent to Miss Katongole at HM Prison Peterborough by recorded delivery and by first class post on 9 June 2022.

The panel had regard to the Royal Mail 'Track and Trace' printout which showed the Notice of Hearing was delivered to HM Prison Peterborough on 10 June 2022. It was signed for against the printed name of 'HMP'.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and venue of the meeting.

In the light of all of the information available, the panel was satisfied that Miss Katongole 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, on 5 November 2021 at Northampton Crown Court, were convicted of:*

*1. Assault / Ill treat / neglect / abandon a child / young person likely to cause unnecessary suffering / injury x9*

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

## **Decision and reasons on facts**

The charge concerns Miss Katongole's conviction and, having been provided with a copy of the certificate of conviction, the panel finds that 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.'*

## **Background**

On 1 September 2020, Miss Katongole submitted a self-referral to the Nursing & Midwifery Council confirming that on 13 June 2020 she had been charged with offences contrary to section 1(1) of the Children and Young Persons Act 1933.

The offences spanned a period of five years between 1 January 2015 and 12 December 2019. Miss Katongole was at the time on police bail.

Following trial, Miss Katongole was convicted of 9 counts of the above offence on 4 November 2021. On 5 November 2021, Miss Katongole was sentenced to a term of imprisonment for 4 years [PRIVATE].

Miss Katongole was sentenced along with two others, [PRIVATE].

[PRIVATE].

Miss Katongole did not enter a plea during the criminal proceedings and her response to the NMC allegation dated 26 December 2021 following her conviction was to admit the fact of the conviction and not the offences for which she had been found guilty, [PRIVATE].

### **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Miss Katongole's fitness to practise is currently impaired by reason of Miss Katongole's conviction. 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.

### **Representations on impairment**

The NMC requires the panel to bear in mind its 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 has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel was reminded that in addition to the serious convictions there are aggravating features to this matter, in particular Miss Katongole shows no remorse for her actions, [PRIVATE].

In the absence of remorse, Miss Katongole also lacked insight into her pattern of behaviour which occurred over a period of time spanning 5 years and, which despite the conviction, she continues to deny.

The panel accepted the advice of the legal assessor.

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

The panel next went on to decide if as a result of the conviction, Miss Katongole's fitness to practise is currently impaired.

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

When determining whether the conviction was sufficiently serious to impair fitness to practise, the panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code).

The panel was of the view that Miss Katongole's actions fell significantly short of the standards expected of a registered nurse, and that Miss Katongole's actions amounted to a breach of 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*

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

*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress"*

The panel then considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* 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/their fitness to practise is impaired in the sense that S/He/They:*

- 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*
- a) ...'*

The panel found limbs a – c engaged in the *Grant* test. The panel found that although patients were not put at risk, Miss Katongole's conduct resulting in her conviction caused physical and emotional harm [PRIVATE] and puts patients and members of the public at an unwarranted risk of harm. Miss Katongole's conviction had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that although Miss Katongole had referred herself to the NMC following her conviction, she had not accepted the offences for which she had been found guilty. The panel saw no evidence that she had developed insight into her conviction nor had it seen evidence of any remorse, [PRIVATE].

The panel was of the view that there is a risk of repetition based on Miss Katongole's lack of insight into her conviction. The panel therefore decided that a finding of impairment is 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.

When considering the wider public interest, the panel considered that confidence in the nursing profession would be undermined should a fully informed member of the public learn that the fitness to practice of a nurse who had been convicted of such an offence was not found impaired. The panel determined that, in this case, a finding of impairment on public interest grounds was required.

Having regard to all of the above, the panel was satisfied that Miss Katongole's fitness to practise is currently impaired.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Miss Katongole off the register. The effect of this order is that the NMC register will show that Miss Katongole 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 Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

## **Representations on sanction**

It was submitted by the NMC that the seriousness of the offences which have given rise to the convictions are such that they are fundamentally incompatible with being a registered

professional and as such the only appropriate order is a striking-off order. It was submitted that any lesser sanction would be insufficient to maintain public trust and confidence in the profession. It is further submitted that the fact of the conviction alone is sufficient to justify an order for striking off the register.

### **Decision and reasons on sanction**

Having found Miss Katongole'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 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 SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Miss Katongole's lack of insight and remorse into her conviction.
- Miss Katongole's conduct which gave rise to her conviction caused intentional harm [PRIVATE].

The panel also took into account the following mitigating features:

- Miss Katongole referred herself to the NMC.
- [PRIVATE].

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 not protect the public nor be 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 public protection issues identified, an order that does not restrict Miss Katongole'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 Miss Katongole's misconduct was 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 Miss Katongole'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 nature of the charge in this case. The concerns are not clinical and the behaviour identified was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Katongole's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

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

The panel considered that the behaviour which gave rise to Miss Katongole's conviction was not a single instance but occurred on numerous occasions over a period of 5 years. The panel took into account its finding that Miss Katongole had no insight into her conviction and was satisfied that she had clear deep-seated attitudinal problems. The panel was of the view that there was a risk of Miss Katongole repeating her behaviour. The panel determined that Miss Katongole's conduct as highlighted in her conviction, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss

Katongole's actions is fundamentally incompatible with Miss Katongole remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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?*

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

Balancing all of these factors and after taking into account all the evidence before it 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 Miss Katongole's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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 decision will be confirmed to Miss Katongole in writing.

### **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 Miss Katongole's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

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

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel 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 to cover the period of appeal.

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

That concludes this determination.