

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

**Substantive Order Review Meeting  
Tuesday, 7 June 2022**

Virtual Meeting

**Name of registrant:** **Mercy Chinyere Ejiofor**

**NMC PIN:** 98B1220E

**Part(s) of the register:** Registered Nurse – Sub-part 1  
Adult Nursing (March 2001)

**Relevant Location:** London

**Type of case:** Misconduct

**Panel members:** Suzy Ashworth (Chair, Lay member)  
Margaret Marshall (Registrant member)  
Rachel Childs (Lay member)

**Legal Assessor:** Nigel Ingram

**Hearings Coordinator:** Philip Austin

**Order being reviewed:** Conditions of practice order (6 months)

**Fitness to Practise:** Currently impaired

**Outcome:** **Suspension order for 3 months (with a review to be held at a hearing) to come into effect upon expiry of the current order, namely, at the end of 18 July 2022, in accordance with Article 30(1)**

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

The panel received information from the legal assessor concerning service of the notice of meeting.

The notice of meeting was sent by the Nursing and Midwifery Council's ("NMC") case officer to the email address that Mrs Ejiofor had on the NMC Register as of 5 May 2022. The main bundle containing the documentary evidence was also sent to her in a secure and encrypted fashion on the same date. However, Mrs Ejiofor requested that a copy of these documents to be sent out to her by post on 9 May 2022, which the NMC case officer did by recorded delivery on 11 May 2022.

The notice of meeting informed Mrs Ejiofor that a meeting would go ahead on or after 6 June 2022, and this date was also the deadline for her to provide any written evidence to the panel. Furthermore, the notice of meeting informed Mrs Ejiofor that she could ask for this matter to be dealt with at a hearing instead of a meeting, and that she had 29 days from the date of the notice to make this request.

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

The panel noted that the notice of meeting had initially been served on 5 May 2022, which was more than 28 days before this meeting. A subsequent notice of meeting letter was also sent to Mrs Ejiofor, along with the main bundle on 11 May 2022, but the panel was satisfied that the first notice of meeting constituted good service in accordance with Rules 11A and 34 of the Fitness to Practise Rules 2004 (as amended) ("the Rules").

The panel was content for this review to be undertaken at a meeting, and it did not consider it necessary to refer this matter to a hearing. The panel noted that Mrs Ejiofor had responded to the NMC case officer on 9 May 2022 asking for the documents to be sent to her by post. The notice of meeting and the main bundle was then sent to Mrs Ejiofor by post on 11 May 2022, and she responded in an email on 17 May 2022, setting out her reflections. The panel noted that Mrs Ejiofor did not ask for this meeting to be made into a

hearing. Mrs Ejiofor has provided written representations for the panel to take account of for the purposes of today's hearing. Therefore, the panel determined that adjourning this matter for consideration at a hearing would not serve any useful purpose at this time.

The panel was satisfied that it would be able to consider this matter at a meeting today, having regard to all the documentary evidence before it.

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

The panel decided to impose a suspension order for a period of three months. This order will come into effect upon expiry of the current suspension order, namely, at the end of 23 July 2022, in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' ("the Order").

This is the sixth review of a substantive order, originally imposed by a panel of the Conduct and Competence Committee ("CCC") on 20 December 2016. On that occasion, a conditions of practice order was made for a period of 12 months. This order was then reviewed at a substantive order review meeting on 6 December 2017, where a panel of the Fitness to Practise Committee ("FtPC") replaced the conditions of practice order with a suspension order for 12 months. On 14 December 2018, a panel of the FtPC replaced the suspension order with a new conditions of practice order for 12 months. On 6 January 2020, the conditions of practice order was reviewed and a panel of the FtPC extended the conditions of practice order for 12 months. On 10 December 2020, a panel of the FtPC extended the conditions of practice order for 12 months. At the last review on 10 December 2021, a panel of the FtPC imposed a conditions of practice order for a period of sixth months.

The current order is due to expire at the end of 18 July 2022.

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

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

*'That you a registered nurse, whilst working at Whittington Hospital:*

*1. On 8th April 2014 whilst working on Victoria Ward, dispensed one or more of the following medications to Patient B that were not prescribed for said patient*

*1.1 ...*

*1.2 Atenolol*

*1.3 Bendroflumenthiazide*

*That you a registered nurse, whilst working at the Queen Elizabeth The Queen Mother Hospital in Margate:*

*2. On 8th August 2015 whilst working on St Augustines Ward, incorrectly dispensed 400mg of Amiodarone to Patient A.*

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

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

*"The panel considered whether Mrs Ejiofor's fitness to practise remains impaired.*

*The panel received no new information from either the NMC or Mrs Ejiofor. It noted that it has received no reflective piece and there is no information to suggest that Mrs Ejiofor has developed her insight since the last review. The panel noted that there is no evidence to suggest that Mrs Ejiofor has practised as a registered nurse and concluded that she has therefore been unable to comply with the current conditions of practice order. Further, the panel noted that Mrs Ejiofor has not provided any information to suggest that she has addressed any of the concerns identified or remedied her practice. It determined that there remains a risk of repetition and a consequent risk of harm to patients should Mrs Ejiofor be allowed*

*to practise unrestricted. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.*

*The panel had borne in mind that its primary function was 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 a separate finding of impairment on public interest grounds alone was no longer necessary, as it considered this to have been satisfied by the previous substantive order imposed on your registration.*

*For these reasons, the panel finds that Mrs Ejiofor's fitness to practise remains impaired."*

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

*"The panel first considered whether to take no action or to impose a caution order but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that an order that does not restrict Mrs Ejiofor's practice would not be appropriate in the circumstances. The panel decided that it would be neither proportionate nor in the public interest to take no action or to impose a caution order.*

*The panel next considered whether imposing a further conditions of practice order on Mrs Ejiofor's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.*

*The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel was of the view that a further conditions of practice order is sufficient to protect patients. In this case, there are conditions that could be formulated which would protect patients during the period they are in force.*

*The panel was concerned about the length of time that Mrs Ejiofor has been subject to a conditions of practice order with no evidence of progress towards remediating the original concerns and it noted that a future reviewing panel may consider a different approach. The panel had no information before it in relation to any information from the NMC regarding her compliance with the current conditions of practice order nor Mrs Ejiofor's future intentions. However, the panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of Mrs Ejiofor's case because she was not able to take part in today's hearing and has not yet been able to address the panel on her future intentions or future career.*

*Accordingly, the panel determined, pursuant to Article 30(1)(c) to confirm the conditions of practice order for a period of 6 months, which will come into effect on the expiry of the current order, namely at the end of 18 January 2022. The panel noted that a short extension of the order will allow Mrs Ejiofor and the NMC time to outline her intentions and future career options. It decided to confirm the following conditions which it considered are appropriate and proportionate in this case:*

*'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'*

- 1. You must not carry out medicine administration until deemed competent by your supervisor or a named deputy. Evidence of such should be provided to the NMC within seven days of the completion of the assessment.*
- 2. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month to discuss the standard of your performance in particular in relation to medicines administration.*

3. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance in relation to medicines administration to the NMC at least 14 days before any NMC review hearing or meeting.*
4. *You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*
5. *You must inform the NMC of any professional investigation started against you and any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
6. *You must within 14 days of accepting any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the course of study.*
7. *You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (6) above, to them:*
  - 1) *Any organisation or person employing, contracting with, or using you to undertake nursing work*
  - 2) *Any nursing agency you are registered with or apply to be registered with (at the time of application)*
  - 3) *Any nursing prospective employer (at the time of application)*
  - 4) *Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

*The period of this order is for 6 months.*

*This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 18 January 2022 in accordance with Article 30(1).*

*Before the end of the period of the order, a panel will hold a review hearing to see how well Mrs Ejiofor has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.*

*Any future panel reviewing this case would be assisted by:*

- *Mrs Ejiofor's attendance in person at the next review hearing.*
- *Evidence as to Mrs Ejiofor's intentions regarding her future career.*
- *A structured reflective piece following a recognised model (e.g. Gibbs or Johns).*
- *Testimonials and references, relating to paid or unpaid work.*
- *Any documentary evidence of retraining that is related to the charges, as well as keeping skills up to date."*

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

The panel has considered carefully whether Mrs Ejiofor'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. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it contained within the NMC meeting bundle. It 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 had regard to the previous determinations in this case, and noted that Mrs Ejiofor's fitness to practise as a registered nurse was found impaired on the grounds of public protection and public interest.

The panel considered the misconduct identified to be serious, and to relate to Mrs Ejiofor's clinical nursing practice. It considered Mrs Ejiofor's clinical deficiencies to be capable of remediation, in principle.

However, in taking account of the new information received, the panel considered Mrs Ejiofor to have provided very little evidence in support of her case. The panel had received no evidence that Mrs Ejiofor had been able to comply, at any point, with the conditions of practice imposed upon her. It noted the concerns of previous panels regarding the efforts that Mrs Ejiofor had made to find appropriate employment to demonstrate her compliance with the conditions, and observed that the representations she had made to this panel did not disclose any new attempt to do so.

Mrs Ejiofor provided an email containing her current reflections on 17 May 2022, but the panel was not satisfied that she had developed her insight further in any meaningful way. It considered her to have made a series of assurances to do better in future, but it did not consider her to have reflected on how the medication errors arose, or have undertaken any substantive training. Instead, Mrs Ejiofor had referred the panel to guidance associated with medications management and administration, and simply reiterated to the panel that she would follow it.

In addition to this, the panel was not satisfied that Mrs Ejiofor had undertaken meaningful remediation in an attempt to strengthen her practice. Mrs Ejiofor stated in her email dated 17 May 2022 "*I had, and I will immediately go and keeping going for intensive medications training or courses, once I am back to practice as RGN*"[sic]. However, the panel was not provided with any documentation demonstrating that Mrs Ejiofor had attempted to complete any relevant training, despite her telling the panel that she had and she would.

Furthermore, Mrs Ejiofor indicated that she would be willing to take training courses upon resumption of her nursing career, which suggested to the panel that she had failed to understand the recommendations of previous panels. Mrs Ejiofor will need to address the outstanding concerns in her clinical practice and show that she has taken effective steps to maintain her clinical skills, before being permitted to return to the NMC Register without restriction.

Mrs Ejiofor has not provided the panel with any evidence of the steps she has taken to address the concerns identified. She has not complied with any of the recommendations made by the previous reviewing panel.

Therefore, the panel determined that Mrs Ejiofor has failed to make any significant progress in developing her insight, or in remediating the misconduct found proved. In the absence of any evidence to the contrary, the panel could not be satisfied that the risk of repetition in this case had reduced. It considered there to be a real risk of repetition of the events, should Mrs Ejiofor be permitted to return to unrestricted nursing practice. Accordingly, the panel found there to be continuing impairment on the grounds of public protection.

The panel also bore in mind the overarching objective of the NMC: to protect, promote and maintain the health, safety and wellbeing of the public and patients and the wider public interest which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of that profession. As Mrs Ejiofor has not yet fully addressed the concerns identified by the previous panels, this panel determined that, in the particular circumstances of this case, a finding of continuing impairment on public interest grounds is required. It was of the view that a fully informed member of the public, aware of all the evidence presented in this case, would expect a panel to make a finding that Mrs Ejiofor's fitness to practise remains impaired at this stage.

For these reasons, the panel finds that Mrs Ejiofor's fitness to practise as a registered nurse remains impaired.

## **Decision and reasons on sanction**

Having found Mrs Ejiofor's fitness to practise as a registered nurse to remain 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 first considered whether to take no action but concluded that this would be inappropriate in view of the risk of repetition identified and the 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 order but concluded that this would be inappropriate in view of the risk of repetition identified and 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 then considered whether to impose a conditions of practice order. It noted that such an order is often appropriate where there are identifiable areas of practice in need of assessment or retraining. Whilst the panel considered Mrs Ejiofor's clinical misconduct to be capable of remediation, due to her continuing lack of insight and meaningful steps to strengthen her practice, it determined that a conditions of practice order is no longer appropriate. Mrs Ejiofor has had multiple opportunities to demonstrate remediation and insight into her clinical deficiencies, as well as to take proactive steps to seek work as a registered nurse; the panel has no evidence before it to suggest that she has done so. The panel was of the view that Mrs Ejiofor still appeared to be failing to engage constructively with the guidance given by FtPC panels, despite having been subject to regulatory intervention for over five and a half years.

In light of the above, the panel determined that a conditions of practice order would be neither proportionate, nor would it satisfy the public interest considerations.

The panel then considered the imposition of a suspension order.

The panel noted that Mrs Ejiofor continues to express a willingness to return to the nursing profession. She professes to want to improve her nursing practice but, in the panel's judgment, the steps she has taken thus far have been completely insufficient. Clear recommendations had been given by previous panels, yet Mrs Ejiofor does not appear to have given them due consideration. This panel found that Mrs Ejiofor had not made any significant progress in developing her insight or strengthening her nursing practice.

Despite noting that Mrs Ejiofor has had a period of suspension before, the panel was minded that Mrs Ejiofor should be permitted a further opportunity to demonstrate insight and remediation. The panel did give serious consideration to a striking-off order, but determined that, at the current time, this sanction would be disproportionate in the particular circumstances of this case. A future panel, in the absence of significant progress in addressing the outstanding concerns arising from events that took place seven and eight years ago, may be compelled to impose a striking-off order.

In taking account of the above, the panel determined that a suspension order would sufficiently satisfy the public protection and public interest elements of this case.

The panel concluded that a three month suspension order would be the appropriate and proportionate response, and this would probably afford Mrs Ejiofor a final opportunity to demonstrate her insight and provide evidence of remediation. The panel sought to draw the below recommendations to Mrs Ejiofor's attention which may be of assistance as she prepares for the review of her suspension order.

This panel would recommend that this matter be listed for a hearing at the next review, rather than a meeting.

A future reviewing panel may be assisted by:

- Mrs Ejiofor's attendance in person at the next review hearing.
- Evidence as to Mrs Ejiofor's intentions regarding her future career.

- A structured reflective piece following a recognised model (e.g. Gibbs or Johns), which should include the learning that she has gained from these incidents and the impact of the medication incidents on patient safety.
- Testimonials and references, relating to paid or unpaid work.
- Any certificates for training related to medication management and administration.
- Any other training certificates that demonstrate that Mrs Ejiofor has kept her nursing skills up to date.

This decision will be confirmed to Mrs Ejiofor in writing.

That concludes this determination.