

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

**Substantive Order Review Hearing  
Friday 9 September 2022**

Nursing and Midwifery Council  
Virtual Hearing

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

**NMC PIN:** 98B1220E

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

**Relevant Location:** London

**Type of case:** Misconduct

**Panel members:** Fiona Abbott (Chair, Lay member)  
June Robertson (Lay member)  
Terry Shipperley (Registrant member)

**Legal Assessor:** Andrew Young

**Hearings Coordinator:** Elena Nicolaou

**Nursing and Midwifery Council:** Represented by Muneeb Akram, Case Presenter

**Mrs Ejiofor:** Not present and unrepresented

**Order being reviewed:** Suspension order (3 months)

**Fitness to practise:** Impaired

**Outcome:** **Striking off order to come into effect at the end of 18 October 2022 in accordance with Article 30 (1)**

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

The panel was informed at the start of this hearing that Mrs Ejiofor was not in attendance and that the Notice of Hearing had been sent to Mrs Ejiofor's email address on 4 August 2022.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and venue of the hearing and, amongst other things, information about Mrs Ejiofor's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Akram, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mrs Ejiofor has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mrs Ejiofor**

The panel next considered whether it should proceed in the absence of Mrs Ejiofor. The panel had regard to Rule 21 and heard the submissions of Mr Akram who invited the panel to continue in the absence of Mrs Ejiofor. He submitted that Mrs Ejiofor had voluntarily absented herself.

Mr Akram referred the panel to the email from Mrs Ejiofor, dated 1 September 2022, which stated:

*'Thanking you in your recent correspondence...I will not be attending the virtual hearing on Friday 9th of September 2022... I do confirm the hearing can take place in my absence.'*

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Ejiofor. In reaching this decision, the panel has considered the submissions of Mr Akram and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Ejiofor;
- Mrs Ejiofor has informed the NMC that she would not be attending the hearing today and she is content for it to proceed in her absence;
- All relevant documentation for the hearing has been properly served on Mrs Ejiofor;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Ejiofor.

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

The panel decided to impose a striking off order.

This order will come into effect at the end of 18 October 2022 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh 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. The order was reviewed on 10 December 2021, a panel of the FtPC imposed a conditions of practice order for a period of sixth months. This order was last reviewed on 7 June 2022, when the panel replaced the conditions of practice order with a suspension order for a period of 3 months.

The current order is due to expire at the end of 18 October 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 Bendroflumethiazide*

*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 sixth reviewing panel determined the following with regard to 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 Mrs Ejiofor'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.'*

The sixth reviewing panel determined the following with regard to 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 engaged 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.'*

## **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 Mrs Ejiofor'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, including the NMC bundle, and the email from Mrs Ejiofor. It has taken account of the submissions made by Mr Akram.

Mr Akram took the panel through the background of the case and referred it to the relevant pages in the bundle, as well as the facts found proved at the original hearing and the previous reviewing panels' decision.

Mr Akram submitted that Mrs Ejiofor's misconduct was serious and related to her clinical practice. These were clinical deficiencies capable of remediation, but they have not been addressed to date by Mrs Ejiofor. There is still little evidence in support of Mrs Ejiofor's case for the suspension order to be lifted, and whilst there has been a recent email from her, there is no evidence of her demonstrating compliance with the conditions of practice order that was previously imposed, in addition to information of remediation following her suspension order.

Mr Akram referred to the email from Mrs Ejiofor, dated 1 September 2022, in which she apologises for the medication errors and that she sincerely promises it will not happen again. He submitted that not much has been said about her remediation or training within this email. Mrs Ejiofor has stated that she now holds a full-time permanent job as a Healthcare Assistant (HCA). Mr Akram also referred to the email sent by the NMC, dated 8 September 2022, which reminded Mrs Ejiofor of the list of evidence requested of her, however this has not been provided in advance of today's hearing, namely:

- *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.*

Mr Akram submitted that, in light of the absence of this information from Mrs Ejiofor, a real risk of repetition remains. He submitted that there is continuing impairment on the grounds of public protection. Mrs Ejiofor has still not yet addressed the original concerns.

Mr Akram submitted that there is a need to maintain public confidence in the nursing profession and to uphold proper professional standards. He submitted that, given the lack of insight and the lack of evidence the previous reviewing panel requested of Mrs Ejiofor, there is little evidence of developed insight. In the circumstances, he submitted that the current suspension order should be extended.

The panel also had regard to the email from Mrs Ejiofor, dated 1 September 2022, which stated:

*'The reason why I have nothing more to say, than continually and apologizing for the medication errors I did. I sincerely promise it will never happen again. I am still, and continuously familiarising myself in reflection of what RIDDOR teaches about medication errors, and how to avoid making future medication errors, and remain focus. Please do give me a chance to go back and practice as a RGN I do really love, demonstrate my skills to the needy (Patients). Presently I have a permanent full time job in a Nursing home as a Health care Assistant, observing my senior colleagues administering medications, and also using the opportunity to ask questions on how to avoid medication errors, that is when they complete administration of their medication rounds. I am doing all I can to be a more professional RGN in future.'*

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

The last reviewing panel determined that Mrs Ejiofor was liable to repeat matters of the kind found proved. Today's panel has received a response from Mrs Ejiofor, which demonstrated no evidence of remediation and insight. Mrs Ejiofor has also not provided information that was requested of her by the previous reviewing panels. In light of this, this panel determined that Mrs Ejiofor is still liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is 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, in this case, a finding of continuing impairment on public interest grounds is also required.

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

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

Having found Mrs Ejiofor's fitness to practise 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 30 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 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 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 Mrs Ejiofor'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 Mrs Ejiofor's misconduct was not at the lower end of the spectrum and that a caution order

would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice order on Mrs Ejiofor's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel considered that, should Mrs Ejiofor have provided the information the previous panels asked for, then conditions of practice may have been appropriate. However, the panel does not have any information about how Mrs Ejiofor is performing in her current job, and there is no evidence that she would be willing to comply with a further conditions of practice order, especially taking into account the number of previous conditions of practice orders imposed by preceding panels. In these circumstances, the panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mrs Ejiofor's misconduct.

The panel next considered imposing a further suspension order, and took into account the NMC's guidance. The panel was of the view that there were two areas of concern, namely:

- Mrs Ejiofor's continued lack of insight into the original misconduct, five and a half years after the substantive meeting; and
- The lack of willingness to provide evidence of remediation as advised by previous panels, or to engage in previous conditions of practice orders, demonstrating attitudinal problems which posed significant risk of the original behaviours being repeated.

Further, the panel was particularly concerned that the medication errors found proved occurred one year apart, and both matters only came to light because the patients concerned recognised that the medication they had been dispensed by Mrs Ejiofor was incorrect.

The panel noted that Mrs Ejiofor has shown some remorse for her misconduct in her recent email, but there has been no further evidence of this or reflective pieces from her,

demonstrating her insight and the impact her actions could have had on patients, colleagues and the wider profession. The panel considered that this case has been ongoing for a significant period of time and there has been a lack of progress and improvement made by Mrs Ejiofor over this period of time. It noted that Mrs Ejiofor has also only made one application for a nursing position in the past and is currently working as an HCA. The previous reviewing panel made it clear to Mrs Ejiofor what information a future panel would require, but no such information has been provided by her in advance of today's review. It considered that there is a continuing absence by Mrs Ejiofor to address the original concerns and demonstrate that she could return to safe practice. There has been no evidence of reflection, training or testimonials from her over a period of six years. The panel considered that a risk of repetition and therefore a risk of harm remains. The panel was of the view that considerable evidence would be required to show that Mrs Ejiofor no longer posed a risk to the public and she has provided no such evidence at any stage of the proceedings. It noted the importance of upholding proper professional standards as well as public confidence in the profession.

The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances. The panel determined that it was necessary to take action to prevent Mrs Ejiofor from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

The panel noted that two out of three bullet points set out in the NMC's Guidance, as to when a striking off order may be appropriate, apply in this case, namely:

- *Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- *Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register?*

The panel determined that Mrs Ejiofor's actions do raise fundamental questions about her professionalism, and it determined that public confidence in the profession would not be maintained if Mrs Ejiofor was not removed from the register.

Accordingly, the panel does not accept Mr Akram's submission on behalf of the NMC that a further suspension order would be appropriate in this case and has determined that a striking-off order is the only appropriate order at this stage of the proceedings.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 18 October 2022 in accordance with Article 30(1).

This decision will be confirmed to Mrs Ejiofor in writing.

That concludes this determination.