

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

**Substantive Order Review Meeting
1 November 2023**

Virtual Meeting

Name of registrant: Bethel Josephine Otaoghene

NMC PIN: 68Y1492E

Part(s) of the register: Nursing, Sub part 2
RN2, Registered Nurse - Adult (Level 2)
(25 January 1968)

Midwifery
RM, Registered Midwife (28 February 1972)

Relevant Location: Lambeth

Type of case: Misconduct

Panel members: Debbie Jones (Chair, Lay member)
Helen Chrystal (Registrant member)
June Robertson (Lay member)

Legal Assessor: Simon Walsh

Hearings Coordinator: Tyrena Agyemang

Order being reviewed: Suspension order (6 months)

Outcome: **Strike-off Order to come into effect on 16
December 2023 in accordance with Article 30
(1)**

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Ms Otaoghene's registered email address on 12 September 2023.

The panel took into account that the Notice of Meeting provided details that the review would be held no sooner than 30 October 2023 and invited Ms Otaoghene provide any written evidence seven days prior to this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Otaoghene 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).

Decision and reasons on review of the current order

The panel decided to impose a striking off order. This order will come into effect at the end of 16 December 2023 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 18 May 2022. This was reviewed on 2 May 2023, where the panel decided to extend the substantive order for a period of six months.

The current order is due to expire at the end of 16 December 2023.

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:

Details of charge (as amended)

That you, a registered midwife:

1) ...

2) ...

3) *On 23 September 2017:*

a) *Did not obtain a wheelchair for a patient when asked to do so by Colleague B. **[proved]***

b) *Did not communicate clearly with Colleague B in that:*

*i) when asked whether a patient was mobile you replied 'she's changed' or words to that effect. **[proved]***

*ii) when Colleague B indicated she did not understand what you meant by saying 'she's changed' or words to that effect in response to Colleague B's question, repeated 'she's changed' and did not attempt to clarify your statement. **[proved]***

4) *On 22 January 2018:*

a) *Did not communicate effectively with Patient B in that you shouted and/or communicated aggressively. **[proved]***

b) *Administered Syntrometrine to Patient B when it was clinically contra indicated. **[proved by admission]***

5) *On 08 February 2018:*

a) *Did not ensure Patient C was:*

- i) ...
- ii) ...
- iii) *Provided with a blood transfusion within a reasonable time of having been transferred to a recovery room. **[proved]***

6) *On 18 July 2018:*

- a) *Did not insert a catheter into Patient D's bladder prior to attempting to suture vaginal tears she had suffered. **[proved]***
- b) *Sutured Patient D's urethra closed. **[proved by admission]***

7) *On or around 21 and/or 22 July 2018*

- a) *Were unable to provide clinical details for a patient in your care when required to do so. **[proved]***
- b) *Were rude and/or aggressive and/or unprofessional when communicating with colleagues. **[proved]***
- c) ...
- d) ...

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

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

The panel considered whether Ms Otaoghene's fitness to practise remains impaired. The panel noted it had no new evidence before it today to suggest otherwise and there has been no material change since the last hearing.

The panel noted that there are serious concerns identified in Ms Otaoghene's case including aggressive behaviour towards patients and colleagues, clinical failings and incomplete insight. The panel further noted that Ms Otaoghene has not addressed the recommendations given to her at the last hearing. She has not

submitted a reflective piece to demonstrate that she has gained insight into her failures, nor submitted any other information for the panel to consider today.

In light of Ms Otaoghene's failure to demonstrate improved insight or remediation of the failings found in her practice, the panel determined that there remains a risk of repetition of the misconduct found proved.

For these reasons, the panel finds that Ms Otaoghene's fitness to practise remains impaired on public protection grounds. The panel also found that Ms Otaoghene's fitness to practise remains impaired on public interest grounds to protect and maintain standards and confidence in the profession, in light of the misconduct found and lack of remediation.

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

Having found Ms Otaoghene'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.

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 Ms Otaoghene'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 Ms Otaoghene'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 Ms Otaoghene'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 took into account that the concerns identified in Ms Otaoghene's clinical practice were remediable however it was mindful that Ms Otaoghene has not engaged with the NMC proceedings today. The panel had no information about her present circumstances and whether she is taking steps to address her failures. The panel was of the view that at this time there were no conditions which could be identified as workable and it was not possible to impose a conditions of practice order.

The panel next considered continuing the current suspension order. The panel were mindful that Ms Otaoghene has not engaged with today's hearing. There is no further information since the original panel imposed a suspension order.

In light of this, the panel did consider imposing a striking off order however decided that it would be disproportionate at this time given that this was Ms Otaoghene's first substantive review hearing and there was a reference to 'personal reasons' in the email dated 27 April 2023 from her representative which may have impacted her ability to remediate her failures and engage today.

A suspension order would afford Ms Otaoghene the opportunity to reengage with the NMC and to demonstrate a fuller understanding into the original regulatory concerns and evidence of her efforts towards remediation prior to the consideration of any further review of this order.

The panel determined that it had no reason before it to suggest that a further suspension order is not appropriate. It therefore determined that the appropriate further period of the suspension order should be for 6 months to give Ms Otaoghene a timely opportunity to reengage with the NMC proceedings.

Decision and reasons on current impairment

The panel has considered carefully whether Ms Otaoghene'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, including the NMC bundle and a telephone note detailing a conversation between Ms Otaoghene and the NMC dated 19 October 2023.

The panel considered the information provided by Ms Otaoghene. However, the panel did not have any information from apart from a telephone note of a conversation between Ms Otaoghene and the NMC, in which states she no longer wishes to engage in NMC process as she "*does not see the point*". The telephone notes further states that Ms Otaoghene alleges the NMC's case was "*based on lies*" and she wants to focus on her family going forward.

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 Ms Otaoghene's fitness to practise remains impaired.

The panel noted that the last reviewing panel found that Ms Otaoghene had failed to provide any information or evidence demonstrate improved insight or remediation of the failings found in her practice.

The panel today was of a similar view. It had no information from Ms Otaoghene to demonstrate she had improved her insight or strengthened practice. It had nothing to demonstrate she had addressed the failings in her practice. The only information the panel had before it was confirmation of Ms Otaoghene's intentions not to engage with the NMC's process going forward.

The last reviewing panel determined that Ms Otaoghene was liable to repeat matters of the kind found proved. Today's panel has received no information to persuade the panel otherwise. It had nothing from Ms Otaoghene regarding any steps she has taken to strengthen her practice.

In light of this the panel determined that Ms Otaoghene remains 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 Ms Otaoghene's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Otaoghene 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 then considered the imposition of a caution order but it determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Ms Otaoghene'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 Ms Otaoghene'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 Ms Otaoghene'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 was not able to formulate conditions of practice that would adequately address the concerns relating to Ms Otaoghene's misconduct.

The panel next considered imposing a further suspension order. The panel noted that Ms Otaoghene has not shown remorse for her misconduct. She has not demonstrated that she wishes to continue practicing as a nurse, or that she will cooperate with her regulator. Further, Ms Otaoghene has not demonstrated any insight into her previous failings. The panel was of the view that considerable evidence would be required to show that Ms Otaoghene no longer posed a risk to the public. 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 Ms Otaoghene 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.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 16 December 2023 in accordance with Article 30(1).

This decision will be confirmed to Ms Otaoghene in writing.

That concludes this determination.