

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

**Substantive Order Review Meeting
Monday 29 July 2024**

Virtual Meeting

Name of Registrant: Julia Opuz

NMC PIN 01B0680E

Part(s) of the register: Nursing – Sub Part 1
Adult Nursing – September 2004

Relevant Location: Warrington

Type of case: Misconduct

Panel members: Rachel Onikosi (Chair – Lay member)
Claire Martin (Registrant member)
Saiqa Shaffi (Lay member)

Legal Assessor: Nigel Pascoe KC

Hearings Coordinator: Vicky Green

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Striking off order to come into effect in accordance with Article 30 (1), namely at the end of 11 September 2024**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Mrs Opuz's registered email address by secure email on 21 June 2024.

The panel took into account that the Notice of Meeting provided details of the review, namely, that the review meeting would be held no sooner than 29 July 2024 and invited Mrs Opuz to provide any written evidence seven days before 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 Mrs Opuz 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 allow the suspension order to lapse at the end of 11 September 2024 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the first review of a 12 month substantive suspension order originally imposed by a Fitness to Practise Committee panel on 11 August 2023. The current order is due to expire at the end of 11 September 2024.

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 are as follows:

'That you, a registered nurse:

- 1) *On the 3rd March 2020 provided an employment reference purporting to be from Manager 1.*
- 2) *Your actions in charge 1 were dishonest in that:*
 - a) *You knew Manager 1 was not the author of the reference.*
 - b) *You sought to mislead Bluestones Medical agency to accept the reference was genuine.*

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

The substantive panel determined the following with regard to impairment:

'The panel finds that Mrs Opuz's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was also satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel considered that there is no evidence before it that indicates Mrs Opuz has demonstrated insight, remorse or reflection into her actions, nor has she addressed why she undertook these actions in the first place. It noted that Mrs Opuz has not engaged with the NMC's proceedings. The panel reminded itself that it is difficult to address dishonest actions in any case, but there is no evidence before it that Mrs Opuz has even made attempts to do so. It also noted that Mrs Opuz undertook this action as a means for personal gain within a new role. Accordingly, in the absence of any evidence of remediation or reflection, the panel concluded that there remains a significant risk of repetition.

In light of the above, the panel was therefore of the view that a potential risk of harm and a risk of repetition remains in the absence of any evidence from Mrs Opuz. The panel therefore decided that a finding of impairment is necessary on

the grounds of public protection, albeit it considered the risk of harm to be on the lower end of the scale.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as a well-informed member of the public would be shocked to learn of Mrs Opuz's actions. The panel agreed that the grounds of public interest was most prevalent in this case.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Opuz's fitness to practise impaired on the grounds of public interest.

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

The substantive panel determined the following with regard to sanction:

'The panel took into account the following aggravating features:

- A lack of engagement with the NMC by Mrs Opuz.*
- A lack of insight, reflection and remorse from Mrs Opuz into her actions.*

The panel also took into account the following mitigating features:

- No evidence of repetition since the incident occurred.*

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 Mrs Opuz'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 Opuz'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 placing conditions of practice on Mrs Opuz'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 the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- No evidence of general incompetence;*
- Potential and willingness to respond positively to retraining;*
- The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*

- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the 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 Mrs Opuz'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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. The panel considered that this incident was a single act, Mrs Opuz has since found employment with a new employer, and it appears no issues have been raised since the original incident occurred.

However, the panel was of the view that there are attitudinal concerns present as Mrs Opuz has not engaged with the NMC's proceedings, nor is there any evidence before the panel to suggest that she has demonstrated any insight, remorse or reflection into the seriousness of her actions, and the impact that they could have had on patients, the public and the profession. The panel considered that dishonesty is difficult to address in any event, but there is no evidence from Mrs Opuz to suggest that she has even made any attempts to do so.

The panel was of the view that, despite Mrs Opuz commencing a new employment, the concerns found proved are serious and involve dishonesty. It considered the importance of ensuring that public confidence in the profession and in the NMC as regulator is maintained.

The panel did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate at this stage. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Opuz's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mrs Opuz. However, this is outweighed by the public interest in this case.

The panel considered that this order is 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.

The panel determined that a suspension order for a period of 12 months with a review was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- *Mrs Opuz's engagement with the NMC's proceedings and her attendance at the review hearing;*
- *A written reflection by Mrs Opuz that demonstrates her insight, remorse and reflection into her dishonest actions; and*
- *Testimonials, whether from paid or unpaid work.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Opuz'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 the on table bundle containing a number of email communications between the NMC and Mrs Opuz.

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 Opuz's fitness to practise remains impaired.

The panel had regard to the charges found proved at the substantive hearing and considered that these were serious and involved dishonesty linked to Mrs Opuz's nursing practice and was for personal gain. The panel noted that the substantive panel found that Mrs Opuz, at that stage, had not demonstrated any insight, remorse or provided any evidence of strengthened practice.

The panel had regard to the recommendations of the substantive panel as set out below:

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

- *Mrs Opuz's engagement with the NMC's proceedings and her attendance at the review hearing;*
- *A written reflection by Mrs Opuz that demonstrates her insight, remorse and reflection into her dishonest actions; and*
- *Testimonials, whether from paid or unpaid work'*

The panel had sight of an email sent by Mrs Opuz to the NMC dated 11 July 2024 and noted the reasons for her request for a meeting rather than a hearing. The panel considered that whilst Mrs Opuz had not requested a hearing to enable her to attend, she has engaged with the NMC in her written communications.

The panel noted that Mrs Opuz, in her written communications, does not accept the substantive panel's findings and denies the charges. The panel had regard to Mrs Opuz's email dated 11 July 2024 in which she sets out detailed reasons for her denial, it had particular regard to the following:

'I received a telephone call from Whittle Hall informing me that a reference was ready at reception for my collection. Which I attended in person to collect, then took with me to Bluestones Medical Agency when I had my interview.'

Whilst the panel acknowledged this, it was mindful that a decision had been made by the substantive panel and this panel are not re-visiting the facts noting that Mrs Opuz

had an opportunity to present evidence to the substantive panel before it made its findings on the facts.

The panel found that Mrs Opuz has not provided any evidence that she has developed her insight into her misconduct and associated dishonesty since the substantive order was imposed. The panel also found that Mrs Opuz has not provided any evidence that she has taken any steps to address her misconduct and to strengthen her practice. In the absence of any evidence of insight and evidence of strengthened practice, the panel determined that there is a risk of repetition of the misconduct.

The panel noted that the substantive panel considered that whilst it was at the lower end of risk, there was a risk of harm to patients if nurses provide fraudulent references purporting to an employer that they have skills for a post that they might not have. The panel also noted that a finding of current impairment was made on public protection grounds. The panel was of the view that honesty and integrity are fundamental tenets of the nursing profession, and that a finding of dishonesty raises public protection concerns. As the panel has found that there is a risk of repetition of Mrs Opuz's misconduct, it determined that there was a consequent risk of harm to patients. The panel therefore found Mrs Opuz's practice currently impaired on the ground 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 considered that findings of dishonesty are serious and given that Mrs Opuz has not taken any steps to reflect on, or address these concerns, the panel determined a finding of continuing impairment on public interest grounds is also required to maintain confidence in the profession and uphold proper professional standards.

Having regard to all of the above, the panel concluded that Mrs Opuz's fitness to practise remained impaired on both public protection and public interest grounds.

Decision and reasons on sanction

Having found that Mrs Opuz's fitness to practise is 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 had regard to the advice of the legal assessor.

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 had sight of an email from Mrs Opuz to the NMC dated 11 July 2024 in which she stated the following:

'I am currently not working [PRIVATE]...'

The panel also had sight of an email from Mrs Opuz to the NMC dated 25 July 2024 in which she stated the following:

'Can i be removed from the NMC register [PRIVATE].'

The panel had regard to the NMC Guidance on *'Allowing nurses, midwives or nursing associates to be removed from the register when there is a substantive order in place'* (Reference: REV-3h. Last Updated: 24/04/2023). It noted that Mrs Opuz's registration would have lapsed had it not been for the substantive suspension order that it currently in place. The panel also noted that if the suspension order is allowed to expire, then Mrs Opuz's registration would lapse and she would no longer be registered with the NMC and therefore not able to practise as a registered nurse.

The panel had particular regard to the section in the NMC Guidance (Reference: REV-3h. Last Updated: 24/04/2023) entitled *'Nurse, midwife or nursing associate doesn't want to continue practising'* in which the following is stated:

'Because nurses, midwives and nursing associates can apply for readmission to the register as soon as their registration lapses, it is important that the panel is sure that the nurse, midwife or nursing associate no longer wants to practise before it decides to let an order expire.'

The panel also had regard to the section entitled *'Public protected by finding of impairment'* in the NMC Guidance (Reference: REV-3h. Last Updated: 24/04/2023) in which the following is stated:

'Before allowing a professional to leave the register by lifting a substantive order or allowing it to expire, the panel should make it clear whether they consider the professional's fitness to practise to be currently impaired. This is because nurses, midwives or nursing associates, whose registration lapses or are removed from the register after a suspension or conditions of practice order expires or is lifted, can apply for readmission. In looking at any application in the future, and deciding whether the nurse, midwife or nursing associate is capable of safe and effective practice and meets the requirements for health and character, the Registrar (or one of our Assistant Registrars who also make decisions on behalf of the Registrar) would be able to take account of the panel's decision whether the nurse, midwife or nursing associate's fitness to practise was still impaired when they were removed from the register.'

Whilst the panel acknowledged this guidance and potential approach it could take in these circumstances, the panel was of the view that taking no further action and allowing Mrs Opuz's registration to lapse would be inappropriate in view of the seriousness of this case and Mrs Opuz's persistent lack of insight into her misconduct and associated dishonesty. 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 Mrs Opuz'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 Opuz’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 on Mrs Opuz’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 Miss Opuz’s misconduct and associated dishonesty which is attitudinal in nature.

The panel next considered imposing a further suspension order. It had regard to the NMC sanctions guidance and amongst others, took into account the following factors:

- *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, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour.*

The panel noted that the original charges were serious and involved dishonesty for personal gain. The panel determined that Mrs Opuz’s has demonstrated a persistent lack of insight, reflected in her email communications to the NMC in which she does not accept the substantive panel’s findings and seeks to provide further evidence to rebut it’s findings. The panel was of the view that Miss Opuz’s continued lack of insight and failure to strengthen her practice, together with the nature and seriousness of the charges found proved are indicative of a harmful deep-seated attitudinal problem. The panel noted that there is no evidence that Mrs Opuz has repeated the errors since the

substantive hearing, however it has identified a risk of repetition in view of the lack of insight and demonstrated remediation.

The panel took into account the NMC guidance on a striking off order, including the following non-exhaustive list of key considerations:

- *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?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel was of the view that Mrs Opuz's lack of meaningful engagement with this process and her apparent unwillingness to accept the findings of misconduct of the original panel and to address the shortfalls in her practice raise fundamental questions about her professionalism and her commitment to nursing. The panel considered that Mrs Opuz has been afforded ample time to reflect on her misconduct and associated dishonesty, and to strengthen her practice. The panel therefore determined that a further period of suspension would neither serve any useful purpose in the circumstances, nor address the public interest in this case. The panel determined that it was necessary to take action to prevent Mrs Opuz 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 11 September 2024 in accordance with Article 30(1).

This decision will be confirmed to Mrs Opuz in writing.

That concludes this determination.