

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

**Substantive Order Review Hearing
Tuesday 19 March 2024**

Virtual Hearing

Name of Registrant: Maura Chinyere Anyassor

NMC PIN 89A01170

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nurse – Level 1, 26 January 1989

Relevant Location: Tower Hamlets

Type of case: Misconduct

Panel members: Richard Weydert-Jacquard (Chair, Registrant member)
Rachel Louise Jokhi (Registrant member)
Keith Murray (Lay member)

Legal Assessor: Tim Bradbury

Hearings Coordinator: Brenda Eze

Nursing and Midwifery Council: Represented by Rochelle Collins, Ms Collins

(Registrant's name): Not present and unrepresented at the hearing

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on 30 April 2024 in accordance with Article 30**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Anyassor was not in attendance and that the Notice of Hearing had been sent to Mrs Anyassor's registered email address by secure email on 19 February 2024.

Ms Collins, 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.

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

In the light of all of the information available, the panel was satisfied that Mrs Anyassor 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 Anyassor

The panel next considered whether it should proceed in the absence of Mrs Anyassor. The panel had regard to Rule 21 and heard the submissions of Ms Collins who invited the panel to continue in the absence of Mrs Anyassor. She submitted that the Hearings Coordinator had called Mrs Anyassor the morning of the hearing and Mrs Anyassor had confirmed that she would not be attending.

Ms Collins submitted that there had been no previous or recent engagement by Mrs Anyassor with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Anyassor. In reaching this decision, the panel has considered the submissions of Ms Collins and the advice of the legal assessor. It has had particular regard to the 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 Anyassor;
- Mrs Anyassor has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- 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 to proceed in the absence of Mrs Anyassor.

Decision and reasons on review of the substantive order

The panel decided to impose a further suspension order.

This order will come into effect upon the expiration of the substantive order (29 April 2024) in accordance with Article 30 of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of six months by a Fitness to Practise Committee panel on 29 September 2024.

The current order is due to expire at the end of 29 April 2024.

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

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

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1. *On 21 January 2020 during a cervical smear test procedure on Patient A you:*
 - (a) *Failed to stop the procedure when instructed by Patient A to stop;*
 - (b) *Held Patient A down to complete the procedure despite being told to stop.*

2. *You failed to treat Patient A with dignity and/or respect in that you:*
 - (a) *Failed to introduce yourself and/or greet Patient A on their arrival;*
 - (b) *Failed to explain the procedure to Patient A before starting;*
 - (c) *Failed to give Patient A privacy whilst they undressed;*
 - (d) *Failed to give Patient A privacy whilst they undressed;*

3. *Failed to communicate effectively and/or compassionately with Patient A in that you:*
 - (a) *Continued with the smear test procedure despite Patient A being distressed/and or crying;*
 - (b) *Did not offer Patient A support during and/or after the procedure.'*

The original panel determined the following with regard to impairment:

'The panel finds that patients, namely Patient A, was put at risk and was caused emotional harm as a result of Mrs Anyassor's misconduct. The panel also finds that Mrs Anyassor's misconduct had breached the fundamental tenets of the nursing profession and has brought and is liable in the future to bring its reputation into disrepute.

Regarding insight, the panel considered that Mrs Anyassor has provided very limited insight into the concerns. The panel noted that she initially demonstrated some insight in the email that was sent during February 2020, however she appeared to backtrack from this at the subsequent investigation meetings and disciplinary hearings and failed to demonstrate any meaningful insight at those stages. In addition, the panel have no evidence before it of any strengthened practice given Mrs Anyassor's lack of engagement with the NMC.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Mrs Anyassor has taken steps to strengthen her practice. The panel took into account the email provided in February 2020; however, it had no other evidence before it to address the misconduct in this case and demonstrate a strengthened practice as she still does not realise that she has done anything wrong. Mrs Anyassor's insight did not develop beyond this email and was not demonstrated in the investigation meeting and disciplinary hearing that followed in March 2020 and April 2020.

The panel is therefore of the view that there is a risk of repetition based on the absence of any strengthened practice and meaningful insight. In addition to this, the panel had no evidence that it could be satisfied as to remediation or strengthening of practice as there is no evidence of Mrs Anyassor's current employment or whether she is currently practising in any capacity. The panel determined 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; 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 because a member of the public informed of these circumstances, would be seriously concerned if a nurse were to be allowed to practise without restriction. Mrs Anyassor did not treat Patient A kindly and did not behave professionally. 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 Anyassor's fitness to practise impaired on the grounds of public interest.

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

The original panel determined the following with regard to sanction:

'Having found Mrs Anyassor'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 and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the Sanctions Guidance (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:

- *Abuse of position of power*
- *Direct emotional harm to Patient A*
- *Lack of insight into failings*

In light of Mrs Anyassor's lack of engagement, the panel was unable to identify any mitigating features at this stage.

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 Anyassor's practice would not be appropriate in the circumstances. The panel have identified a risk and was of the view that a caution order would not address it. 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 Anyassor'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 Anyassor'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;*
- No evidence of general incompetence;*
- Conditions can be created that can be monitored and assessed.*

The panel is of the view that the misconduct identified in this case could be addressed through retraining. It determined that there could be practical and workable conditions that could have been formulated given the nature of the charges in this case. However, there has been no engagement from Mrs Anyassor that indicates a willingness to respond positively to retraining.

Furthermore, the panel concluded that the placing of conditions on Mrs Anyassor's registration would not adequately address the lack of insight and the seriousness of this case.

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 panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

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 this would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Anyassor'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 was of the view that Mrs Anyassor's actions are serious, involving fundamental tenets of the profession including issues surrounding consent, restraint, communication, and privacy. It determined that the misconduct needs to be marked to satisfy the public interest. Although there are ongoing attitudinal concerns, the panel was not satisfied that Mrs Anyassor is a callous and uncaring nurse but is someone who has worked individually for a long period of time and has lost sight of the standards that are expected of a Registered Nurse. The panel was of the view that a suspension order would give Mrs Anyassor the opportunity to reflect on her misconduct, express remorse and strengthen her practice by undertaking appropriate training courses.

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

The panel considered that this order is necessary both for protection of the public and to mark the importance of maintaining public confidence in the profession. The panel determined that the order is also necessary 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 6 months 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 Anyassor's engagement with the NMC and attendance at future hearings*
- *Clear indication of future career intentions*
- *A reflective statement demonstrating insight into the misconduct and the effect it had on Patient A, colleagues, and the wider profession.*
- *Testimonials from any paid or voluntary work Mrs Anyassor may be undertaking.*
- *Evidence of self-directed learning or courses attended addressing the misconduct found in this case, in respect of communication, respect, dignity, consent and restraint.)'.*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Anyassor'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. It has taken account of the submissions made by Ms Collins on behalf of the NMC.

Ms Collins submitted that your fitness to practice remains impaired on the grounds of public protection and public interest. She submitted that there has been no engagement from Mrs Anyassor and a future panel would be assisted by Mrs Anyassor engaging and attending in future hearings. She further submitted that a clear indication of Mrs Anyassor's future intention to practise, a reflective statement demonstrating insight into the misconduct, any testimony from paid or voluntary work undertaken by Mrs Anyassor and evidence of self-directed learning or courses addressing the misconduct would serve useful to the future panel.

Ms Collins submitted that you have not engaged since July 2023

Ms Collins submitted that the NMC are seeking to confirm and continue the current sanction of an interim suspension order. She submitted that the length of any suspension order would be up to the panel to decide should they choose this to be an appropriate sanction. She submitted that an interim suspension order is an appropriate response on the basis that there has been no engagement and that the panel are not in a position to discern whether or not any progress has been made by Mrs Anyassor.

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 bore in mind the previous panel's determination that the registrant lacked insight into her failings and therefore was liable to repeat her misconduct in the future, necessitating a finding of impairment on public protection grounds. Furthermore, the panel was aware that due to the severity of the misconduct found, the previous panel had deemed a finding of impairment necessary on the grounds of public interest.

In determining current impairment, the panel considered the following questions:

- What evidence of remediation or strengthened practice has the registrant presented to the panel and of what quality is it?
- Has Mrs Anyassor's insight improved or got worse since last hearing?
- Has Mrs Anyassor taken effective steps to maintain her knowledge or skills relevant to practice as a nurse?
- Has the registrant demonstrated a record of safe practice since last hearing?
- Have outstanding concerns been remediated?

The panel noted that the registrant has not provided any evidence to the panel to demonstrate any strengthened practice, progress on developing insight, steps to update her knowledge and skills, or demonstrate any record of subsequently safe practice.

Consequently, the panel determined that the outstanding concerns have not been remediated and therefore a risk to the public remains.

The panel concluded its determination on impairment by posing the next question:

- Can the nurse practice kindly, safely and effectively?

The panel determined that in light of no evidence to the contrary following the serious misconduct the previous panel had found, that the registrant was currently impaired on both public protection and public interest grounds.

Decision and reasons on sanction

Having found Mrs Anyassor fitness to practise currently impaired, the panel went on to consider the aggravating and mitigating features of this case.

The panel considered the following an aggravating feature of the case:

- Despite serious findings of misconduct and impairment, Mrs Anyassor has taken no steps towards remediation as per the previous panel's recommendations

The panel did not identify any mitigation features of the case.

The panel next went to consider 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 and public interest issues identified, an

order that does not restrict Mrs Anyassor'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 Anyassor'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 Anyassor'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 considered that although it might have been possible to formulate appropriate conditions in this case, it concluded that this would not be practical given the absence of any evidence to suggest that Mrs Anyassor would engage with a conditions of practice order or respond positively to retraining.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Mrs Anyassor further time to fully reflect on her previous failings. It was of the view that a suspension order would allow Mrs Anyassor a future opportunity to reflect on her previous failings, consider whether she wishes to maintain her registration and, if she so chooses, take steps towards developing insight and developing her practice. The panel considered that a further six months suspension order would be sufficient for this purpose and would also afford Mrs Anyassor an opportunity to approach any past or current health professionals for testimonials.

Accordingly, the panel determined to impose a suspension order for the period of six months.

The panel gave serious consideration to the imposition of a strike off order, but considered that in view of Mrs Anyassor's misconduct being of a single instance, that this may be an unduly punitive sanction at this time. The panel remained concerned that no evidence of developing insight or strengthened practice had been forthcoming from Mrs Anyassor to this point.

Nevertheless, the panel did not consider the stage has yet been reached which Mrs Anyassor should be given a further opportunity to develop insight or remediate. Accordingly, the panel did not consider that it was be appropriate to strike off at this time. The panel were of the view that a future reviewing panel would have the option of imposing a striking off order should Mrs Anyassor continue to not provide any evidence of meaningful remorse, reflection, or insight.

This suspension order will take effect upon the expiry of the current suspension order, namely the 30 April 2024 in accordance with Article 30.

Before 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 Anyassor's engagement with the NMC and attendance at future hearings
- Clear indication of future career intentions
- A reflective statement demonstrating insight into the misconduct and the effect it had on Patient A, colleagues, and the wider profession.
- Testimonials from any paid or voluntary work Mrs Anyassor may be undertaking.
- Evidence of self-directed learning or courses attended addressing the misconduct found in this case, in respect of communication, respect, dignity, consent and restraint.

This will be confirmed to Mrs Anyassor in writing.

That concludes this determination.