

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

**Substantive Order Review Hearing
Thursday, 14 March 2024**

Virtual Hearing

Name of Registrant: **Mercy Ngozi Okeke**

NMC PIN 9816999E

Part(s) of the register: Registered Nurse – sub part 1
Registered Midwife

Adult Nursing – level 1
September 2001
Midwifery
March 2005

Relevant Location: London

Type of case: Misconduct/Lack of competence

Panel members: Michelle Lee (Chair, registrant member)
Sue Heads (Lay member)
Alexandra Hawkins-Drew (Registrant member)

Legal Assessor: Sean Hammond

Hearings Coordinator: Franchessca Nyame

Nursing and Midwifery Council: Represented by Nisha Bambhra, Case Presenter

Miss Okeke: Not present and unrepresented at the hearing

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (2 months)**

**to come into effect on 19 March 2024 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 Miss Okeke was not in attendance and that the Notice of Hearing had been sent to Miss Okeke's registered address by recorded delivery and by first class post on 14 February 2024.

Ms Bambhra, 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).

Ms Bambhra informed the panel that the last time Miss Okeke engaged with the NMC was 10 August 2023. On 11 August 2023, the NMC emailed Miss Okeke on the e-mail address that it currently has on the register asking her to make contact and no response was received. This was repeated on 6 October 2023 and 8 February 2024 and, again, no response was received. Further attempts were made via telephone on three different numbers and by e-mail on 13 February 2024. However, the calls were unsuccessful, and it came back through a delivery notification that the e-mail address that the NMC holds on the register did not deliver the email to Miss Okeke.

Ms Bambhra drew the panel's attention to a trace report dated 14 February 2024 which confirmed Miss Okeke's address as the same address the NMC has on the register. As a result, a further letter was sent to that address notifying her of the hearing on 14 February 2024, and two unsuccessful attempts were made by Royal Mail to deliver the letter on 16 February 2024 and 17 February 2024. The NMC again attempted to make contact by e-mail and letter to Miss Okeke on 13 March 2024, but no response was received.

Ms Bambhra submitted that the NMC have clearly made all reasonable efforts to contact Miss Okeke to notify her of the hearing and provide her with the relevant information to engage today.

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 Miss Okeke'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 the NMC made all reasonable attempts to serve Miss Okeke with notice of this hearing, and that notice has been served in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Okeke

The panel next considered whether it should proceed in the absence of Miss Okeke. The panel had regard to Rule 21 and heard the submissions of Ms Bambhra who invited the panel to continue in the absence of Miss Okeke.

Ms Bambhra submitted that there had been no engagement at all by Miss Okeke with the NMC in relation to these proceedings since 10 August 2023, and that Miss Okeke has voluntarily absented herself from the proceedings. Ms Bambhra highlighted that Miss Okeke has made no attempts to contact her NMC Case Officer, nor has she requested an adjournment. Ms Bambhra further submitted that, even if an adjournment was granted, it would not secure Miss Okeke's attendance on the next occasion.

Ms Bambhra submitted that, given the very serious nature of the findings made against Miss Okeke, it is in the public interest to deal with this case expeditiously.

For these reasons, Ms Bambhra invited the panel to proceed in Miss Okeke's absence today.

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Miss Okeke. In reaching this decision, the panel considered the submissions of Ms Bambhra and the advice of the legal assessor. It had particular regard to relevant case law, and to the overall interests of justice and fairness to all parties. It noted that:

- Miss Okeke has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- Miss Okeke has not provided the NMC with details of how she may be now contacted other than her registered address which has been unsuccessful;
- No application for an adjournment has been made by Miss Okeke;
- There is no reason to suppose that adjourning would secure Miss Okeke's attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In the circumstances, the panel decided that it was fair to proceed in the absence of Miss Okeke.

Decision and reasons on review of the substantive order

Due to significant administrative delays, the panel was not able to commence this hearing until 16:20 and therefore determined that it had insufficient time to conduct a comprehensive review of the substantive order today. The panel was mindful that the current conditions of practice order is due to expire on 19 March 2024 and, as a result of the order lapsing, Miss Okeke would be permitted to practise without restriction. It invited submissions from Ms Bambhra on the how the NMC wished to proceed.

Ms Bambhra submitted that there is no evidence before the panel to support that any steps have been taken by Miss Okeke to address the concerns, therefore there has been no material change in circumstance since the previous review.

Ms Bambhra stated that the overarching purpose of this hearing was to ensure that the public remains protected. She submitted that the public clearly needs to be protected given that Miss Okeke has not provided any evidence to demonstrate that she has strengthened her practice or remediated her actions, and in light of the very serious findings that have been made against her.

Ms Bambhra therefore submitted that, under Article 34, the panel has the power to extend the current order as it is due to expire on 19 March 2024, and, in the meantime, a further hearing can be arranged so that a comprehensive review of the order can be undertaken.

The panel accepted the advice of the legal assessor.

The panel decided it did not have sufficient time to undertake a comprehensive review of the current order.

The panel noted that there has been no material change since the previous review took place on 20 February 2023. The panel further noted that there is a persuasive burden on a registrant at a substantive review hearing to demonstrate that they have addressed the concerns which led to the imposition of the order. In the absence of any such evidence from Miss Okeke, the panel was satisfied that Miss Okeke's fitness to practise remains impaired.

The panel was mindful that the current order is due to expire on 19 March 2024, and that once that order lapses Miss Okeke would be allowed to practise without restriction. The panel bore in mind Article 3(4) of the 'Nursing and Midwifery Order 2001' (the Order) and the overarching objective to protect the public. Although the panel did not undertake a full comprehensive review, given the administrative delays and the fact that there was insufficient time available today, the panel determined that a substantive order remains necessary for the same reasons identified by the previous reviewing panel. The panel determined that the appropriate and proportionate order would be to extend the current conditions of practice order for a period of two months. This would enable the case to be relisted with the appropriate notice period in order for a comprehensive review to take place which Miss Okeke could hopefully attend. Furthermore, this would adequately protect the public and meet the wider public interest.

Accordingly, the panel decided to extend the current conditions of practice order for a period of two months.

It decided to impose 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 role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing.

1. You must not practice as a Midwife
2. You must limit your nursing practice to one substantive employer which must not be an agency

Whilst working as a Registered Nurse:

3. You must notify 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.
4. You must inform the NMC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
5. a) You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study.

b) You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.
6. You must undertake a full-time preceptorship or an equivalent period of supported practice, under direct supervision for a period of time, no less than six months or until your employer assesses that you are competent to practise under indirect supervision.

7. Thereafter, you must ensure that you are supervised at all times on the same shift as, but not always directly observed by a registered nurse of band 6 or above.
8. You must work with your line manager, mentor or supervisor (or their nominated deputy) to formulate a Personal Development Plan specifically designed to address the deficiencies in the following areas of your practice:
 - a) Communication skills with patients;
 - b) Communication and escalation of clinical concerns to the multi-disciplinary team;
 - c) NMC standards of record keeping;
 - d) Medication administration – both practical and theoretical;
 - e) Infection prevention control and aseptic techniques; and
 - f) The use of infusion pumps.
9. Further, you must before any review of this order provide a written reflective piece acknowledging past failings and showing how you would use evidence based practice in addressing those areas of concern in nursing.
10. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every four weeks to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
11. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan at least 14 days before any NMC review hearing or meeting.
12. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer, and at any educational establishment.

13. You must immediately inform any prospective employer and/or any educational establishment at which you are undertaking a course of study connected with nursing, or any such establishment to which you apply to take such a course (at the time of application) that 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 (12) above, to them.

The period of this order is for two months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of date 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 Miss Okeke 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.

This will be confirmed to Miss Okeke in writing.

That concludes this determination.