Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Thursday, 12 June 2025

Virtual Meeting

Name of Registrant:	**Ezra Brown Musango**
NMC PIN:	09K0603E
Part(s) of the register:	RNMH: Mental health nurse, level 1 28 October 2011
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Anthony Mole (Chair, Lay member) Colin Allison (Lay member) Angela Horsley (Registrant member)
Legal Assessor:	Graeme Dalgleish
Hearings Coordinator:	John Kennedy
Facts proved:	Charges 1a, 1b, 1c, 1d, and 1e
Fitness to practise:	Impaired
Sanction:	**Conditions of practice order (12 months)**
Interim order:	**Interim conditions of practice order (18 months)**

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 Mr Musango's registered email address by secure email on 8 May 2025. He has responded to the notice and requested a meeting be held.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, and that the meeting would be considered on or after 12 June 2025.

In the light of all of the information available, the panel was satisfied that Mr Musango 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).

Details of charge

That you, a registered nurse:

1) On 7 February 2021, having become aware that Secure Patient A without permission had left the secure forensic unit, where they were detained, failed to:

a) search Secure Patient A adequately, or at all;
b) did not take sufficient preventative measures to mitigate the security breach;
c) notify any other members of staff on the shift, of the security breach.
d) record the incident;
e) escalate the matter.

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

Background

The charges arose whilst Mr Musango was employed as a registered nurse by Cygnet Health Care Ltd, working on a secure unit for patients who are detained under the Mental Health Act 1983. On the night shift of 7 February 2021 it is alleged that Mr Musango noticed a resident had left the secure facility to collect a takeaway delivery who had used a staff key fob. After this it is alleged that Mr Musango did not complete an incident form, complete any security searches, or inform other staff of this breach in security.

Decision and reasons on facts

At the outset of the meeting, the panel noted the written representations from Mr Musango, which stated that Mr Musango has made full admissions to all the charges. Additionally the panel considered the 'Agreed Position on Facts' agreement in which Mr Musango accepts and admits to all charges, and is signed on behalf of the NMC on 22 April 2025 and by Mr Musango on 11 March 2025.

The panel therefore finds all charges proved in their entirety, by way of Mr Musango's admissions.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Musango's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Musango's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' ("the Code") in making its decision.

The NMC identified the specific, relevant standards which they submitted that Mr Musango's actions amounted to misconduct including a breach of sections 8, 10, 14, 16, 19, 20, and 25 of the Code.

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Mr Musango's fitness to practise impaired on the grounds of public protection and public interest. They submitted that Mr Musango's actions created a serious risk of potential harm to both patients and colleagues by failing to follow the appropriate security procedures and reporting a serious incident.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mr Musango's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Musango's actions amounted to a breach of the Code. Specifically:

> ***'8 Work co-operatively***
> *To achieve this, you must:*
> *8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate*
> *8.2 maintain effective communication with colleagues*
> *8.5 work with colleagues to preserve the safety of those receiving care*
> *8.6 share information to identify and reduce risk.*
>
> ***10 Keep clear and accurate records relevant to your practice***
> *This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*
> *To achieve this, you must:*
> *10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event*
> *10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need*
>
> *14.2 explain fully and promptly what has happened, including the likely effects, and apologise to the person affected and, where appropriate, their advocate, family or carers*
> *14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly.*
>
> ***16 Act without delay if you believe that there is a risk to patient safety or public protection***
> *To achieve this, you must:*

16.1 raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other health and care setting and use the channels available to you in line with our guidance and your local working practices
16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can.

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice
To achieve this, you must:
19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place
19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public.

20 Uphold the reputation of your profession at all times
To achieve this, you must:
20.1 keep to and uphold the standards and values set out in the Code
20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that while the incident is isolated to a single night shift it does amount to a serious falling short of the expected standards of a registered nurse. The panel considered that the particular context of working within a secure mental health unit, the security concerns and the failure to follow appropriate reporting procedures for a security breach gave rise to a significant potential for serious harm to patients and colleagues. Although the panel noted that no actual harm occurred.

The panel found that Mr Musango's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Musango's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, and paragraphs 74 and 76 of *CHRE v NMC and Grant*.

Regarding insight, the panel considered that Mr Musango has displayed developing insight into the incident having made early and full admissions, submitted a reflective piece – albeit a short one, and engaged with the NMC procedure. The panel noted that Mr Musango has since been employed for 21 months as a community mental health nurse with another employer and there are no reported concerns regarding his current practice. However, the panel considered that there is limited evidence of Mr Musango's strengthening of practice due to the lack of any training certificates on working in a secure facility or the importance of reporting serious incidents in a timely manner.

The panel considered that while there was no actual harm caused as a direct result of the misconduct, given the high security nature of the unit and the serious concern that results from a breach of the secure perimeter, there was a real risk of harm. By failing to report that a patient had left the secure unit and further failing to adequately search the patient, Mr Musango prevented the appropriate security review being carried out. The panel found that this put patients, colleagues, and the wider public at risk of serious potential harm.

The panel considered there remains a risk of repetition; however, it noted Mr Musango has worked as a registered mental health nurse with no evidence of further incidents. Therefore, the panel concluded that the first limb of the test set out in *Grant* is met as regards to future conduct and a finding of impairment is required on the ground of public protection.

The panel considered that the second and third limbs of *Grant* are also engaged in this case as by creating the possibility for serious harm Mr Musango's actions are likely in the future to bring the reputation into disrepute and breach the fundamental tenets, namely safe, effective, and collaborative nursing practice.

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 profession and upholding the proper professional standards for members of those professions.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment was not made in this case, given the potential for harm that arose from Mr Musango's failures, the panel also finds his fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of 12 months. The effect of this order is that Mr Musango's name on the NMC register will show that he is subject to a conditions of practice order and anyone who enquires about his registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting, the NMC had advised Mr Musango that it would seek the imposition of a 3-6 month suspension order with a review if it found Mr Musango's fitness to practise currently impaired.

Decision and reasons on sanction

Having found Mr Musango'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 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:

- Placing personal safety ahead of the safety of patients and colleagues

The panel also took into account the following mitigating features:

- Developing insight
- Some recognition of the risks caused
- Some evidence of a difficult working environment around security
- Full and early admissions

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 Mr Musango'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 Mr Musango'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 Mr Musango'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;*
- *…*
- *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 determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel considered that Mr Musango would likely be willing to comply with conditions of practice given his engagement in this process.

The panel had regard to the fact that these incidents occurred in a particular workplace with a set of security concerns and risks of harm that may not be present in all nursing roles.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of this case because the misconduct identified occurred on a single shift, and has not been repeated.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession,

and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions 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, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.
>
> 1. Create a Personal Development Plan (PDP) with your line manager to demonstrate an understanding of the importance of:
>   a) Notifying other members of staff of serious incidents when they occur
>   b) Recording of serious incidents
>   c) Escalation of serious incidents.
>
> 2. A reflective piece using a recognised model on the risk of harm to patients and colleagues by failing to follow security procedures.
>
> 3. Obtain a report from your line manager of your PDP and submit it to your NMC Case Officer, along with your reflective piece before any review of this order.
>
> 4. You must keep us informed about anywhere you are working by:
>   a) Telling your case officer within seven days of accepting or leaving any employment.
>   b) Giving your case officer your employer’s contact details.
>
> 5. You must keep us informed about anywhere you are studying by:
>   a) Telling your case officer within seven days of accepting any course of study.

b) Giving your case officer the name and contact details of the organisation offering that course of study.

6. You must immediately give a copy of these conditions to:
   a) Any organisation or person you work for.
   b) Any agency you apply to or are registered with for work.
   c) Any employers you apply to for work (at the time of application).
   d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

7. You must tell your case officer, within seven days of your becoming aware of:
   a) Any clinical incident you are involved in.
   b) Any investigation started against you.
   c) Any disciplinary proceedings taken against you.

8. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
   a) Any current or future employer.
   b) Any educational establishment.
   c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

Before the end of the period of the order, a panel will hold a review hearing to see how well Mr Musango 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.

Any future panel reviewing this case would be assisted by:

- Mr Musango's attendance at the review
- Testimonials and references from current employment

This will be confirmed to Mr Musango in writing.

Interim order

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Musango's own interests until the conditions of practice sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that an interim order is necessary on the grounds of public protection and public interest to cover any potential appeal period

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months, to allow for the possibility of an appeal to be made and determined.

If no appeal is made, then the interim conditions of practice order will be replaced by the substantive conditions of practice order 28 days after Mr Musango is sent the decision of this hearing in writing.

That concludes this determination.