

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

**Restoration Hearing  
Thursday, 2 October 2025**

Virtual Hearing

<b>Name of Applicant:</b>	<b>Joyline Chenai Kutsonga</b>
<b>NMC PIN:</b>	<b>12J1412E</b>
<b>Part(s) of the register:</b>	Registered Adult Nurse – RN1 – September 2013
<b>Relevant Location:</b>	Leeds
<b>Panel members:</b>	Joanne Creasy (Chair, Lay member) Alison Hayle (Lay member) Victoria Head (Registrant member)
<b>Legal Assessor:</b>	Tracy Ayling KC
<b>Hearings Coordinator:</b>	Daisy Sims
<b>Nursing and Midwifery Council:</b>	Represented by Teri Howell, Case Presenter
<b>Mrs Kutsonga:</b>	Present and not represented
<b>Outcome:</b>	Application refused

## **Decision and reasons on application for hearing to be held in private**

During the hearing, the panel noted that there were matters raised in relation to your private life. The panel asked Ms Howell whether she was content for a Rule 19 application to be made.

Ms Howell, on behalf of the Nursing and Midwifery Council, agreed with this proposal.

The panel determined to hold this hearing partly in private so as to protect your privacy [PRIVATE]. This was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## **Determination of application for Restoration to the Register:**

This is a hearing of your first application for restoration to the Nursing and Midwifery Council ("NMC") Register. You made this application on 27 February 2023. A panel of the Conduct and Competence Committee directed on 2 August 2016 that your name be removed from the register based on its findings with regard to the facts of your case and your impairment. This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001 ("the Order"), as at least five years have now elapsed since the date of the striking-off order.

At this hearing the panel may refuse your application or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

The panel has considered your application for restoration to the Council's Register.

## **Background**

You worked for the Heart of England NHS Trust as a band 5 Staff nurse at the Heartlands Hospital Birmingham. You worked in Beech Ward for 11 months prior to this referral.

On the 16 February 2014 you reported sick with a bad back. You informed the employer that you injured herself outside of the workplace and produced what purported to be Fit notes from your GP to cover periods of certificated sickness.

The employer became suspicious of the certificates and suspected they were not genuine. The employer brought this to the attention of its Human Resources department, which made enquires with your GP. The GP confirmed that on the dates concerned she had not seen you at the surgery or issued Fit notes.

The Trust also informed the NMC that you had not maintained contact with the Trust or provided any Fit notes since the 24 April 2014 and as such had been absent without leave.

This matter was investigated locally by the Trust who provided a copy of their investigation report dated 16 September 2014 to the NMC. Its conclusion was that you should face a disciplinary Hearing for the following: Submitting fraudulent Fit notes between 28 February 2014; 24 April 2014, failing to sustain a satisfactory level of attendance at work; a high level of absence which was against Trust Disciplinary policy; and a failure to make yourself available for work in breach of the absence policy. The Trust dismissed you by letter dated 03 November 2014 after finding the case proven.

This matter was referred to the local NHS fraud team, which carried out its own investigation. You were investigated for the offence of fraud by misrepresentation, in that you presented four Fit notes and obtained a monetary gain. The investigation gathered evidence from the GP, who confirmed that only two Fit certificates had been issued to you.

You were interviewed by the police under caution on 16 June 2014. You denied the allegations and explained that the certificates had been provided in sealed envelopes and had been handed to staff at the Trust by either you or your spouse. You denied seeing any of the documents prior to interview and maintained they had been received from the GP in sealed envelopes.

The case was heard at Birmingham Magistrates Court on the 01 December 2015, where you altered an earlier Not Guilty plea to Guilty. You were convicted and sentenced for four charges under the Fraud Act 2006. You were made subject to a Community Order for 12 months, with a supervision requirement for six months and an unpaid work requirement for 110 hours within 12 months. You were also ordered to pay compensation of £2,700 and costs/surcharges of £490.

The panel of the Conduct and Competence Committee dated 2 August 2016, considered the following charges:

That you, a registered nurse, whilst employed by Heart of England NHS Trust

1. On the 1 December 2015 were convicted at Birmingham Magistrates Court, of four counts of fraud by misrepresentation, contrary to Section 1 and 2 of the Fraud Act 2006.

And, in light of the above, your fitness to practise is impaired by reason of your conviction.

These charges were dealt with at a meeting and you were invited to make any written responses by 25 July 2016. The panel found all of the charges proved.

The Conduct and Competence Committee panel, determined the following with regard to impairment:

*‘The panel then went on to consider whether the conviction was serious enough to call into question the registrant’s fitness to practise. It noted that the conviction was for fraud, an offence of dishonesty; that the registrant had made a pecuniary gain of £2,700 in sick pay received from her employer to which she was not entitled; that the offence spanned a number of weeks and therefore had been repeated; and that public money was involved. The panel therefore had little hesitation in concluding that the offence for which she was convicted was serious enough so as to call her fitness to practise into question. Having determined that*

*the conviction was sufficiently serious, the panel then went on to consider whether, as a result of this conviction, Mrs Kutsonga's fitness to practise is currently impaired. In reaching its decision, the panel had regard to all the information before it. It heard and accepted the advice of the legal assessor.*

*The panel bore in mind that nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) in reaching its decision, in paragraph 74 she said:*

*In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.*

*Mrs Justice Cox went on to say in Paragraph 76*

*I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.*

*Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

*The panel considered whether, as a result of her conviction, Mrs Kutsonga's fitness to practise is impaired. The panel has before it no evidence of remediation by Mrs Kutsonga. She did not engage with the Trust investigation and has not engaged with the NMC's proceedings. The panel had no evidence of any insight from Mrs Kutsonga beyond her guilty plea, which was only entered on the day of the trial. In the absence of any information from Mrs Kutsonga, the panel was satisfied that there was a risk of repetition should Mrs Kutsonga be permitted to return to practice without restriction. In these circumstances, the panel found that Mrs Kutsonga's fitness to practise is impaired.*

*The panel also considered whether Mrs Kutsonga's fitness to practise is impaired on public interest grounds. The panel was of the view that Mrs Kutsonga's conviction, which related to dishonesty, was so serious as to necessitate a finding of impairment on the grounds of public interest. The panel determined that public confidence in the profession would be undermined if a finding of impairment were not made.*

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

The substantive panel went on to determine the following with regard to sanction:

*The panel considered this case very carefully and decided to make a striking off order.*

*In reaching this decision, the panel has had regard to all the documentation before it. The panel accepted the advice of the legal assessor who referred it to the case of Parkinson v NMC [2010] EWHC 1898, which states that, in cases involving dishonesty, a registrant is at risk of being struck off the register if they do not attend a hearing to give an account of their conduct to a panel. Although this proceeding was conducted as a meeting, this was in part a result of the registrant's lack of engagement with the NMC.*

*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 Indicative Sanctions Guidance ("ISG") published by the NMC in particular the section on criminal convictions. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.*

*The panel first considered the aggravating and mitigating factors in this case.*

*The panel considered the aggravating factors to be as follows:*

- Mrs Kutsonga's conviction relates to dishonesty against her employer*
- Mrs Kutsonga breached the trust of her employer*
- The Fit notes were forged on more than one occasion*
- Mrs Kutsonga has not engaged with her employer's investigation or these proceedings*
- Mrs Kutsonga stole public money*
- Mrs Kutsonga stopped attending work with no explanation to her employers*
- The panel has no evidence of insight or remediation.*

*The panel considered the mitigating factors to be as follows:*

- *Mrs Kutsonga did plead guilty, albeit at a late stage*
- *The panel has no evidence before it of any previous disciplinary or NMC proceedings against Mrs Kutsonga*
- *The panel has no evidence before it of any previous convictions*

*The panel considered the sanctions in ascending order.*

*The panel first considered whether to take no further action but determined this was not appropriate due to the seriousness of the charge found proved.*

*The panel next considered whether to impose a caution order but determined that this was not appropriate. The charge found proved involves a conviction for dishonesty and this is not at the lower end of the spectrum of seriousness.*

*The panel next considered whether to impose a conditions of practice order. The panel has no information from Mrs Kutsonga as to her current employment situation and no evidence of remediation. It was therefore not satisfied that any workable conditions could be formulated. Mrs Kutsonga's conviction involves dishonesty against her employer and the panel was satisfied that no condition could be imposed which would address this issue. In all the circumstances the panel was of the view that a conditions of practice order would not be sufficient to protect the public or the wider public interest.*

*The panel next considered a suspension order. The panel did not have the benefit of any explanation of her conduct from Mrs Kutsonga. Due to this lack of evidence of insight and remediation, the panel could not be satisfied that a period of suspension would be sufficient to address the serious issue of dishonesty in this case. This is not a case involving a single instance of dishonesty but a sustained attempt to falsely obtain money from an employer. As the panel has no evidence to suggest otherwise, it concluded that these dishonest acts suggest a deep-seated attitudinal issue on the part of Mrs Kutsonga. In all these circumstances, the panel was of the view that a period of suspension would be insufficient.*



*Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the ISG:*

*70.1 Is striking-off the only sanction which will be sufficient to protect the public interest?*

*70.2 Is the seriousness of the case incompatible with ongoing registration?*

*70.3 Can public confidence in the professions and the NMC be sustained if the nurse or midwife is not removed from the register?*

*71 This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional*

*The panel was of the view that a striking off order was the only sanction in this case which would sufficiently protect the public interest. Mrs Kutsonga has committed an act involving an abuse of trust and has a conviction involving dishonesty. She has not engaged with this process and has offered no explanation to mitigate her conduct, nor has she provided any evidence of insight or remediation. The panel was of the view that public confidence in the profession and in the NMC as a regulator would be undermined if Mrs Kutsonga was permitted to remain on the register.*

*The panel considered that this order was 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.*

## **Submissions and evidence**

The panel took into account the documentary evidence, which was the contents of application for restoration which you submitted to the NMC.

The panel had regard to the submissions of Ms Howell, on behalf of the NMC, and those made by you. You also gave oral evidence.

Ms Howell, on behalf of the NMC, outlined the background of the case and the facts that led to the striking-off order. She referred this panel to the previous panel's decision which resulted in your removal from the NMC's register. Ms Howell referred the panel to the test set out in Article 33(5) of the Order.

Ms Howell, submitted that there is not sufficient evidence to show that you are capable of safe and effective practice. She submitted that there is no evidence of you working in a healthcare setting and there is no evidence of any training you have undertaken.

Ms Howell submitted that whilst you have provided a reflection and submissions on why you should be restored to the register, there is not sufficient evidence that you understand what went wrong and how it came about. She submitted that you have not reflected fully and shown why there is no risk of repetition.

In relation to insight, Ms Howell submitted that it would be useful to hear from you about your understanding of the risk of harm to patients and the impacts of your actions and the steps you have taken to improve your practice.

In relation to the references you have provided, Ms Howell submitted that only one of the referees appears to have known you prior to the incident occurring. Whilst she submitted that the references are helpful in understanding your commitment to the community, they do not go on to discuss the issues that led to the striking off order.

Ms Howell submitted that in order to adequately protect the public and promote professionalism, your application should be refused.

You provided evidence under oath.

You explained that you have recently gained employment as a cleaner. This is a part time 8 hour contract that you gained through the Job Centre.

You explained that you worked as a domiciliary support worker as part of an agency in York for around 7 months between November 2018 and June 2019. You left this employment as you were pregnant.

In regards to online training you explained that you have not done any nursing training but you have completed some unrelated training through the Job Centre. You explained that you could not afford to do any nursing training on your own,

When asked why you did not attend the previous hearing in relation to these charges, you explained that you knew you have '*dented*' your profession and you were '*punishing*' yourself. You stated that you knew that it was not good for your own character to watch the NMC talk about your wrongdoings. You stated that you knew you did wrong and you stated that you were trying to work on your character as you know this was the issue.

You referred the panel to your reflections in your application for restoration dated 27 February 2023. You stated that you were volunteering at church, which you still do. You explained that you were volunteering with people aged between 12-25 and you would regularly explain to them what happened and the consequences of your actions.

In answer to a question about your plans for returning to nursing practice, you stated that you would love to go back to a course to get your skills up to speed and that you have plans to do this. You explained that you have approached universities by phone calls. You also explained that you have moved areas to be closer to universities that would accept you as a student for a return to practice course. You moved in March 2022.

You stated that you are fit to come back to the register as you have had all of this time to work on your character. You explained that '*this is something that I did to myself to get into this situation*'. You explained that there were no issues with your professional side of working. You stated that you know that it is not just professional skills that you need to be a nurse but you need a good character and this is what you have been working on.

You stated that nursing is very precious to you and this is why you took the time to build yourself and work on your character.

You took the panel through personal situations that have impacted you during this time.

In answer to questions from Ms Howell in relation to the payments you have made to the Trust, you explained that in 2017 to 2018, there was an arrangement for you to pay back this money. You explained that there were a few lump sums made in 2015. You stated that you contacted the hospital but they said that you could not pay them directly and that this would need to be done through the courts.

In answer to a question from Ms Howell about what led to you committing fraud, you stated that you were '*hanging with the wrong crowd*'. You stated that you were under financial strain at the time. You stated that you got bad advice from the '*wrong crowd*'. You also stated that you do not know why you listened to this advice. You informed the panel that at the time [PRIVATE] had bills piling up.

In answer to a question from Ms Howell about what you would do if you were in a similar situation you stated that you have cut this wrong crowd out of your life. You explained that you went through debt management and budget management training with the Job Centre which has helped you a lot. You explained that your new role is 8 hours a week and you also receive universal credit. You stated that you have been managing your money with no problems over the last 7-8 years. You stated that you know that there is someone at the Job Centre to help you if you ever need it.

In answer to a question from Ms Howell about the public's perception of your wrongdoings, you explained that you can understand why the public would be concerned if someone who had been convicted of fraud were to return to being a nurse. You explained that you have gone through rehabilitation and you stated that you have worked on yourself and you can only give the public your word that this would not happen again.

In relation to what other professionals would think, you stated that everyone is entitled to their opinion and all you can do is prove yourself. You stated that you would need to give 200% and this is the bar that you set for yourself for the rest of your life.

When asked by the panel what areas of nursing you would like to go into, you explained [PRIVATE], this pushed you to want to go back to nursing as a way of thanking your community and the support you received. You explained that you trained as an adult nurse and you would not mind any area of nursing that you could get.

In relation to the requirements of the university courses you have looked into, you stated that the universities would need to know your education background and you explained that when you spoke to the university in Bradford they said that they are linked to a particular hospital where you would do your training. In terms of maths and English skills, you explained that you did not go into depth about these requirements when you spoke to the university in Bradford.

In answer to a question about what you would do in the future if this application were to be accepted and you were to pay for a return to practice course and then not be successful in gaining employment as a nurse. You stated that you know that you would have to put in 200% and you know that you would have to keep '*knocking on doors*'. You stated that you will just keep going and you know there will be a chance.

In answer to a question from the panel about your support network and how you would deal with childcare if you were to undertake a return to practice course or return to a nursing role, you explained that your daughter is at university near where you live and she would help you with childcare. You explained that you also have a strong network through your church and there are people who would help you with childcare. You explained that you currently undertake childcare responsibilities for some people in your church network and you know this is something that you would be able to deal with.

In answer to a question about how you would fund a university course, you explained that you would be able to gain funding through your church network. You explained that other people have done this through your church. You stated that your church network

spans across England and there are people who rally together to assist those in financial need. You also explained that you would discuss with this network how and when you would pay this money back.

In relation to whether you have any connections with the wrong crowd that you mentioned in your evidence, you explained that you have cut connections with these people a long time ago.

Ms Howell addressed the panel on the NMC's final submissions. She submitted that whilst you have been candid and open, this does not go far enough to show that you understand the seriousness of your offence and the impact this has had on public confidence in the profession. She submitted that you have not shown sufficient insight into how your actions impacted the profession.

Ms Howell submitted that whilst you have explained your lack of engagement, the issue for the panel is whether you are capable of practising safely as a nurse. She submitted that it is important to consider the wider context of the situation that led to your conviction. She reminded the panel that the concerns relate directly to your practice at the Trust.

Ms Howell noted your personal mitigation and submitted that there was nothing exceptional that you were dealing with at the time that would mitigate your fraudulent behaviour.

You submitted that you want to be given the chance to give back to your community, and you can only give your assurance and your word that you are a changed character.

The panel accepted the advice of the legal assessor.

The legal assessor referred the panel to the test provided in Article 33(5) of the Order. Firstly, you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the making of the striking-off order

in 2016, you are a “fit and proper person to practise as a registered nurse”. The legal assessor advised the panel that it is for you to satisfy the panel of these matters and it is for the panel to use its own independent judgment as to whether it is so satisfied.

### **Decision on the application for restoration**

The panel has considered your application for restoration to the NMC register very carefully. It has decided to refuse the application.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse.

The panel was of the view that, whilst very serious, your actions are capable of remediation.

The panel first considered the extent to which you have demonstrated insight and addressed the concerns which led to your striking off order. The panel noted your evidence under oath in relation to the work you have done on your character. The panel also noted the positive testimonials that speak to your character. The panel accepted that you have taken considerable steps to show insight into the concerns about your character. However, the panel had no evidence before it of insight into how your actions affected your colleagues, the Trust, patients and the public’s confidence in the profession.

The panel then considered the period of time since you have been struck off and your employment history since you were removed from the register. It noted that a 9 year gap has elapsed since the imposition of the striking off order. It also noted that you made your application for restoration in 2023. It noted your evidence that you had worked in the healthcare sector for approximately nine months in 2018-2019. The panel considered your evidence that you had applied for multiple jobs in the healthcare sector, however there was no documentary evidence before it to support this. The panel also

did not have sight of any references or testimonials from your employment in the healthcare sector or your current employment.

The panel considered that whilst you were unable to gain employment in the healthcare sector, you could have made other efforts to keep up to date with professional practice. There was no evidence before it of you keeping up to date with nursing practices in any way.

The panel then considered, taking account of the above, whether you would be able to practise safely as a nurse, midwife or nursing associate in the future. In light of the above in relation to lack of insight, what you have done in the time since being struck off, your employment history, and the steps you have taken to strengthen your practice, the panel determined that you are not sufficiently prepared at this moment to satisfy this panel that you are able to return to practise as a nurse.

The panel then determined whether in the context of the concerns that led to the previous striking off order, public confidence in the nursing profession would be undermined if you were to be restored to the register at this time. The panel noted the seriousness of the fraud you committed and the lack of insight into the impact of your actions and considered that the public would be concerned about you rejoining the register.

However, the panel considered that it would be possible for you to be restored to the register in the future if you were able to show sufficient insight into the impact of your actions and demonstrate effort made to keep up to date with professional practice.

The panel therefore concluded that it was not appropriate that your registration be restored, and it decided to refuse your application.

Any future application for restoration by you may be assisted by the following:

- Your reflections and insight on the effect of your actions on your colleagues, the profession, the Trust and the patients;
- Evidence of applications to healthcare agencies;



- More information about what you would do if your application were successful, including what courses you have researched and written evidence of your contact with universities;
- Evidence of your understanding of a Return to Practice course and what would be required of you including any preparatory courses;
- Evidence of what area of adult nursing you would see yourself practising in, for example, medicine, surgery, palliative care.

You have the right to appeal this panel's decision, pursuant to Article 33 (12) and (13):

(12) A person whose application ... for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.

(13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, is served on the applicant.

You are able to make a further application for restoration to the Register after twelve months. In accordance with Article 33(2) (b) you must not make a further application "in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off."

You should bear in mind Article 33 (9) which provides that:

If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the Committee which determined that application may direct that that person's right to make any further such applications shall be suspended indefinitely.

That concludes this determination.

This decision will be confirmed to you in writing.