

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

**Substantive Hearing
20-22 January 2021**

Virtual Hearing

Name of registrant: Oludayo Susan Aina

NMC PIN: 1212781E

Part(s) of the register: Registered Nurse
RNA: Adult Nursing – Sub Part 1
13 September 2012

Area of registered address: London

Type of case: Misconduct

Panel members: John Penhale (Chair, lay member)
Donna Green (Registrant member)
Jennifer Portway (Lay member)

Legal Assessor: Mark McEvoy

Panel Secretary: Max Buadi

Nursing and Midwifery Council: Represented by Jessica Bass, Case
Presenter

Miss Aina: Present and represented by Dr Abbey
Akinoshun

Facts proved by admission: Charges 1, 2(a), 2(b), 3(a), 3(b), 3(c),
4(a)(i)(ii)(iii), 4(b)(i)(ii)(iii), 5, 6(a), 6(b), 7(a),
7(b), 8(a)(i)(ii) and 8(b)(i)(ii).

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order (18 months)**

Details of charge

That you a registered nurse:

1. On or around 17 January 2012 provided an application form to an employee of Team 24 in which you ticked a box stating that you had indefinite leave to remain in the United Kingdom. **[Proved by admission]**

2. Your actions in charge 1 were:

- a) misleading and/or **[Proved by admission]**
- b) dishonest **[Proved by admission]**

in that you knew you did not have indefinite leave to remain and your conduct was designed to conceal this fact in order to obtain paid work.

3. Between January to April 2012 provided original documents or photocopies of:

- a) a passport numbered A00445018; and/or **[Proved by admission]**
- b) a passport numbered A1303853; and/or **[Proved by admission]**
- c) a vignette numbered 0124589A stating that you had indefinite leave to remain in the UK to an employee of Team 24 which were not genuine documents. **[Proved by admission]**

4. Your actions in charge 3 were:

- a. misleading;and/or **[Proved by admission]**
- b. dishonest **[Proved by admission]**

in that you knew that

- (i) passport numbered A00445018; and/or **[Proved by admission]**
- (ii) passport numbered A1303853; and/or **[Proved by admission]**
- (iii) vignette numbered 0124589A **[Proved by admission]**

were not genuine documents and your conduct was designed to conceal this fact in order to obtain paid work.

5. On or around 8 January 2013 provided an application form to an employee of A24 Group Limited in which you ticked a box stating that you had indefinite leave to remain in the United Kingdom. **[Proved by admission]**

6. Your actions in charge 5 were:

a) misleading and/or **[Proved by admission]**

b) dishonest **[Proved by admission]**

in that you knew you did not have indefinite leave to remain and your conduct was designed to conceal this fact in order to obtain paid work.

7. On an unknown date provided original documents or photocopies of:

a) passport numbered A00445018; and/or **[Proved by admission]**

b) residence permit numbered UK9638562 **[Proved by admission]**

to an employee of A24 Group Limited which were not genuine documents.

8. Your actions in charge 7 were:

a) misleading and/or **[Proved by admission]**

b) dishonest in that you knew that **[Proved by admission]**

(i) passport numbered A00445018; and/or **[Proved by admission]**

(ii) residence permit numbered UK9638562 **[Proved by admission]**

were not genuine documents and your conduct was designed to conceal this fact in order to obtain paid work.

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

Background

The current referral was opened on 6 March 2018 during the investigation of a previous referral made in 2015.

In August 2009, you submitted an application for a NHS student bursary in order to assist you in attending a three-year full-time nursing course at Buckinghamshire New University beginning in September 2009.

During the application process for your student bursary, you dishonestly claimed to have been granted 'Indefinite Leave to Remain' (ILR) in the UK on 9 June 2003 and provided a passport which contained fraudulent immigration stamps in support of your application. You were subsequently awarded a student bursary from 21 October 2009 until 14 August 2012 based on the premise that you had ILR and received payments totalling £23,536.00. The student bursary was obtained as a consequence of fraud.

This came to light in November 2014 when the Home Office advised NHS Counter Fraud that you never had ILR in the UK. You were interviewed in September 2016 and charges were pursued. At Snaresbrook Crown Court you entered a guilty plea on 28 June 2017 for one count of fraud and received a sentence of 12 months' imprisonment, suspended for a period of 18 months, 200 hours unpaid work and a compensation order of £1500.

On 31 July 2018, a suspension order for a period of nine months were imposed by the NMC'S Fitness to Practise panel. On 18 April 2019, this suspension order was reviewed and revoked.

During the NMC investigation into the current referral, it was noted that in January 2012, you commenced employment with Team 24 as an agency nurse. Thereafter, in February 2013, you began employment with A24 Group Limited as an agency nurse until August 2014. Mr A is the Attraction, Interview and Training Manager at Team 24 and Ms B is the Registered Manager/Nurse Manager of A24 Group Limited. You had made written applications to both agencies and those witnesses

have both produced those applications, with signed declarations from you regarding your immigration status. This includes you having ticked boxes indicating you had ILR on both application forms, the right to work in the UK, and that the applications were true and correct to the best of your knowledge.

As part of the application process, you were required to provide identification documents and produced passports which it later transpired contained fraudulent immigration stamps. The witness statement of Mr C, the Home Office Immigration Officer, speaks to the fact that the documents you provided to Team 24 and A24 Group Limited are unlikely to be genuine based on a number of discrepancies between the documents supplied and expected standards. Mr C further confirms that you have never had indefinite leave to remain in the UK. You have accepted by your admissions that the documents you produced, in support of your applications, were not genuine.

Decision and reasons on the facts

At the outset of the hearing you made full admissions to charges 1, 2(a), 2(b), 3(a), 3(b), 3(c), 4(a)(i)(ii)(iii), 4(b)(i)(ii)(iii), 5, 6(a), 6(b), 7(a), 7(b), 8(a)(i)(ii) and 8(b)(i)(ii).

The panel therefore finds charges 1, 2(a), 2(b), 3(a), 3(b), 3(c), 4(a)(i)(ii)(iii), 4(b)(i)(ii)(iii), 5, 6(a), 6(b), 7(a), 7(b), 8(a)(i)(ii) and 8(b)(i)(ii) proved in their entirety, by way of your admissions.

Submissions on misconduct and impairment

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 your 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 suitability to remain on the register unrestricted'.

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.

Ms Bass referred the panel to the case of *Roylance v GMC* (No. 2) [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'* She directed the panel to specific paragraphs within 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) and identified where, in the NMC's view, your actions amounted to breaches of the Code and misconduct.

Ms Bass submitted that the misconduct involved repeated and deliberate dishonesty which resulted in financial gain as you were applying for employment using false documentation. As a result, you denied honest nurses of those opportunities of employment.

Ms Bass submitted that NMC guidance states that dishonesty will always be serious. She reminded the panel that you were found to be dishonest in July 2018 when you presented false documentation to obtain a student bursary. You went through the NMC fitness to practice process and said you had learned from that experience and fully understood the duty of candour. During those 2018 NMC proceedings, it was argued on your behalf that this was an isolated incident arising out of a single application in August 2009, but Ms Bass submitted that you knew at that point that you had submitted false documents in subsequent applications and made false declarations that you had indefinite leave to remain and these facts were not disclosed by you to the previous panel.

Ms Bass submitted that this misconduct undermines public confidence in the profession and is at the more serious end of the Fitness to Practise spectrum as the dishonesty is a deliberate breach of the duty of candour. This is because you did not self-refer the current matter despite being in contact with the NMC at the time. Further there was personal financial gain, and this was a pre-mediated, systematic and long-standing deception.

Ms Bass moved on to the issue of impairment and addressed the panel on the need to have regard to protecting 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. Ms Bass referred the panel to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin). She reminded the panel of the Dame Janet Smith ‘test’ from the Fifth Shipman report and submitted that limbs b, c and d should be considered regarding your past actions.

Regarding the risk of repetition, Ms Bass submitted that you had already been found to be dishonest on a previous occasion resulting in an NMC investigation. While you admitted the charges, on both occasions, this was once your dishonesty was discovered. She submitted that on no occasion had you respected the duty of candour by making a self-referral regarding the dishonesty. Ms Bass submitted that the panel can have no confidence that the dishonest conduct would not be repeated.

Ms Bass invited the panel to consider that you only have a right to remain in the UK for a limited period so there is an opportunity to lie again. Further, dishonesty itself is an indication of an attitudinal problem and you could choose a dishonest path again if faced with a future dilemma.

Ms Bass invited the panel to find that your fitness to practise is impaired on both public protection and public interest grounds.

The panel heard oral evidence from you under affirmation.

You said that you admitted to all the charges as there was “no point in lying”. You said the charges are extremely serious due to the dishonesty which you state is not acceptable. You said that as a nurse, you are a public figure that people trust and rely on. Being dishonest breached that relationship and trust with the patient and the public as well as the reputation of the profession.

Regarding your substantive hearing in July 2018, you said that the panel knew that you were working. You said that since your acts of dishonesty, you now know you must be honest and transparent. This is because honesty is an integral part of the nursing profession. You said that it is important to be honest in anything you do as not doing so has an impact on patients, the community and the profession. It could also tarnish the reputation of the nursing profession.

Since the last hearing, you said that you had undertaken a course which included honesty, morals and integrity. This opened your eyes as to why you should be honest and you now apply this to everything you do and you try to be honest and transparent at all times in everything you do.

You stated that your dishonesty was due to a lack of knowledge. You did not plan to be dishonest. You said that you were surrounded by people who gave you advice with regards to applying for benefits. You said that you would rather provide for your family yourself so you went to school. While not a justification for your actions, you were also not aware that this would have affected your integrity. You did not see this as wrong initially as you were taking advice. You also stated that it was those around you who led you to the fraudulent documentation. You did not know that the documents were fraudulent and you relied on the fact that you had used correct information, such as your correct name and date of birth, in support of that assertion. You also stated that you have not repeated any act of dishonesty since 2012.

However, you did admit during questions from the panel, that you knew the documents were fraudulent when you applied to Team 24 and A24 Group Limited, and had in fact known since 2009 when you had conferred with a lawyer. You also could not provide the panel with an answer as to why there were discrepancies between the two different employment histories provided in your application forms to Team 24 and A24 Group Limited.

You were asked whether, in view of your previous dishonesty in 2009 in relation to the bursary application, you accepted that your dishonesty was sustained and pre-meditated and you did not accept this. You were also asked for some further detail as to how you came into possession of the fraudulent documents but beyond

suggesting that it was arranged by associates you were vague and evasive in your evidence and did not assist the panel further in that regard.

You told the panel that, since the last hearing, you have had a renewal of your 10-year route to an indefinite leave to remain as you have a British born son and you therefore see no similar issues occurring in the future. Therefore, your act of dishonesty would not happen again. However, if something were to happen and you were not granted permanent stay in the UK, you said you would inform your employers, the NMC and seek legal advice. Then if it was not possible for you to legally remain in the UK you would return to Nigeria.

You informed the panel that you currently work as a healthcare assistant (HCA) via an agency placement. You are a HCA so you can remain in the health care profession. You last worked as a registered nurse in 2015. You told the panel that when you applied for a permanent HCA role at your current place of work, your employers noticed you were a qualified nurse and queried why you had not applied for a nursing role. You told the panel that in response to that enquiry you told them you were subject to an NMC investigation.

You told the panel that you are very sorry for your actions.

During cross-examination of you in the current proceedings, Ms Bass referred you to the decision of the previous panel. She highlighted that your representative in those previous proceedings, on your behalf, stated that your act of dishonesty was “not persistent and long standing” but rather “a single incidence arising from a single application made by you in August 2009.” Dr Akinoshun submitted that this was a submission from your representative rather than direct oral evidence from you.

Dr Akinoshun submitted that no concerns were raised regarding your clinical practice in the last hearing. Further, he submitted that the previous panel were aware you were working and would have been aware that you had relied on the same fraudulent documents.

Dr Akinoshun drew the panel's attention to your reflective statement. He submitted that the panel should take account of the remediation, how much you love being a nurse and how you have taken responsibility for your actions. Further, you have admitted to all the charges. Character references evidenced that your current employers are pleased and satisfied with your clinical practice which the panel should consider as mitigation but this does not undermine the severity of the dishonesty.

Regarding impairment, Dr Akinoshun submitted that the panel should consider the fact that you have worked in a healthcare setting since 2018 with no concerns raised. He further submitted that the concerns arising from the charges happened eight years ago and have been remediated. Additionally, there is no evidence of further dishonesty since 2012 and that the dishonesty will not be repeated.

Regarding the public interest, Dr Akinoshun submitted that the public would benefit from a nurse with your clinical knowledge and skills. He submitted that your fitness to practice is not impaired and you are not a risk to patients or the public.

The panel accepted the advice of the legal assessor who referred to the cases of *Grant and Cohen*.

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, your fitness to practise is currently impaired as a result of that misconduct.

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 your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

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

20.2 act with honesty and integrity at all times, treating people fairly...

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

20.4 keep to the laws of the country in which you are practising

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

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 your dishonesty was serious and involved using fraudulent documentation for personal financial gain.

The panel noted that your previous act of dishonesty, regarding the student bursary, was said at the time of the 2018 hearing to have been a one-off isolated incident. However, today's substantive panel have found that it was not. The current panel had evidence before it which suggests that your dishonesty regarding your

applications to Team 24 and A24 Group Limited evidences more systematic dishonesty than a one-off misunderstanding. Further, by doing this you gave a misleading impression to any prospective employers, including A24 Group Limited and Team 24 as they thought you had indefinite leave to remain in the UK when you had not. Your dishonesty is significant because you were not open, honest or transparent about the matter during the application process and put your needs before your employers. As a consequence, your actions undermined the NHS recruitment process.

It is still not clear to the panel how you acquired the fraudulent documents in spite of having a number of opportunities to explain this. Using fraudulent documents to gain employment is a criminal act. Therefore, the panel concluded that your 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, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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 paragraph 76 in the case of *Grant*, Mrs Justice Cox referred to Dame Janet Smith's 'test' which reads as follows:

'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 finds that limbs b, c and d are engaged in this case

The panel concluded that your misconduct involved dishonesty whereby you had known in 2009 that your documentation was not genuine. Despite this you subsequently applied for nursing roles on two occasions knowing the supporting documentation you were providing was fraudulent, and also completing the application forms to reflect that you had indefinite leave to remain in the UK, despite knowing this was not true. It was clear to the panel that your actions, in this regard, were dishonest and you gained a financial advantage as a result. Further, you could have denied another nurse who had genuine documentation the roles you had acquired. The panel was in no doubt that your actions had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. In the panel's judgement, the public do not expect a nurse to act as you did as they require nurses to behave with honesty and integrity. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Misconduct involving dishonesty is often said to be less easily remediable than other kinds of misconduct. However, in the panel's judgment, evidence of insight, remorse and reflection together with evidence of subsequent and previous integrity are all

highly relevant to any consideration of the risk of repetition, as is the nature and duration of the dishonesty itself.

The panel had regard to the case of *Cohen*, and considered whether there is a risk of repetition of similar concerns occurring at some point in the future.

The panel did acknowledge that you had admitted all of the charges including those alleging dishonesty but noted that you only did so after your dishonesty had been discovered and you did not voluntarily refer yourself to your regulator. The panel also accepted that there is no evidence of any further dishonesty since 2013.

The panel also noted that you were unable to provide detail and explain the factors behind your actions and could not support some of your answers with further information when examined by the panel. As a result, the panel still does not have a full understanding of the circumstances that led to you being in possession of fraudulent documentation or the full background to your decision to use that documentation to deceive. Having heard your oral evidence, during which you appeared to suggest that your initial possession of the fraudulent documentation was due to your associate's suggestions to you and you had a lack of understanding at the time, the panel was of the view that your insight into your own behaviour is very limited. You knew the documentation was not genuine, yet proceeded to rely upon it in support of application forms for work, which themselves had not been completed truthfully by you.

The current panel accepts that you told the previous panel in 2018 that you were working. However, it does not accept your assertion that the previous panel was aware you had used fraudulent documentation to acquire those positions. The previous panel makes no mention of this in its determination.

The dishonesty in this regard is not easily remediable. While you stated in your oral evidence that you attended a course in relation to honesty, integrity and morals, the panel had no documentary evidence of this course.

In the panel's judgment the risk of repetition is highly likely. This is due to your very limited insight and the absence of cogent explanation as to why you did what you did and evidence of remediation.

The panel considered whether a finding of impairment by reason of misconduct is necessary on public interest grounds. It had regard to the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* 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.'

The panel was satisfied that in light of your dishonesty, the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

The panel is aware that the threshold for finding impairment solely on the grounds that it is in the public interest is high. The panel was of the view that the public interests in this case is engaged as the public reaction towards your actions would be strong. The panel concluded that the public would be appalled that a nurse had sought to mislead prospective employers on two occasions, having previously misled the NHS recruitment process with fraudulent documentation for personal financial gain. For all the above reasons the panel decided that the high threshold in this regard had been met and found your fitness to practise is currently impaired by reason of misconduct on public interest grounds.

The panel bore in mind that no concerns had been raised regarding your clinical practice. However, the panel concluded that you have not been transparent in your oral evidence regarding how you came to acquire fraudulent documents.

Additionally, you were not forthcoming with an answer regarding the discrepancies in your employment history pertaining the applications to Team 24 and A24 Group Limited. Knowing the documentation was not genuine you proceeded to act in a way to protect your own self-interest and attain personal financial gain. The panel was of the view that your dishonesty stemmed from a wider attitudinal concern. It appeared to the panel that you seem to provide information on a need-to-know basis only which contravenes a nurse's duty of candour.

The panel considered that if you were placed in a pressured clinical environment, there is a chance that you would not be sufficiently candid as required. It also noted that you stated, in your oral evidence that you were influenced by the advice of others to acquire fraudulent documentation. Being influenced by others to act dishonestly would be detrimental in a clinical environment. Taking all these factors into account, the panel therefore determined that a finding of impairment is necessary on public protection grounds.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck-off the register.

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.

Submissions on sanction

Ms Bass informed the panel that in the Notice of Hearing, dated 11 November 2020, the NMC had advised you that it would seek the imposition of a striking off order if it found your fitness to practise currently impaired.

Ms Bass took the panel through the aggravating and mitigating factors she considered to be engaged in this case.

Ms Bass submitted that it would be rare for a panel to make a finding of impairment but impose no sanction. She submitted that the public protection issues identified and serious misconduct found warrant action being taken. She also submitted that a caution order would not be appropriate in light of the panel's finding of serious misconduct and impairment on public protection grounds.

Ms Bass also submitted that a conditions of practice order would also be inappropriate. This is due to the dishonesty identified by the panel as stemming from a wider attitudinal problem, the fact that there had been no clinical concerns identified for monitoring via conditions. She further submitted that in these circumstances that it would be difficult to formulate a conditions of practice order.

Ms Bass submitted that a suspension order would not be appropriate as this case relates to repeated and deliberate dishonesty. Further, the panel found you to have very little insight and that there is a high risk of repetition.

Ms Bass invited the panel to impose a striking off order. This is due to your deliberate and repeated dishonesty and a failure in your duty of candour. She submitted that your actions were so serious that to allow you to continue would undermine confidence in the NMC as a regulator. She also submitted that the public would be concerned to learn that you were allowed to continue to practice in light of the concerns identified. She submitted that your actions are incompatible with remaining on the NMC register.

Dr Akinoshun submitted that there was a need for proportionality and implored the panel to strike a fair balance between your rights as a nurse and the public interest.

Dr Akinoshun highlighted the mitigating factors in your case. He submitted that your oral evidence and your comprehensive reflective statement demonstrated insight and the remedial steps you have taken. You have also evidenced to the panel how you practice differently and safely after your act of dishonesty. He submitted that the panel identified that there had been no further evidence of misconduct or dishonesty since 2013.

Dr Akinoshun also submitted that you have done your best to find employment as a nurse but have been unsuccessful. You have demonstrated your commitment to delivering care to patients by undertaking work as a HCA.

Dr Akinoshun drew the panel's attention to your positive testimonials. He highlighted a reference from the Ward Sister at the Whittington Hospital NHS Trust, dated 19 January 2021, who attested to your "holistic approach to patients" and noted your honesty. She also stated that she was aware of the NMC case against you. Based on this your honesty has been subsequently tested.

Dr Akinoshun submitted that you have already completed an NMC imposed a nine month suspension, regarding your dishonesty, in 2018. He submitted that the previous panel knew you were working with fraudulent documentation. As a result, today's proceedings in effect amount to double jeopardy. He also drew the panel's attention to the subsequent review hearing of the case in 2019. He submitted that the reviewing panel revoked the suspension due to the sufficient insight you had developed.

Dr Akinoshun submitted that his initial intention had been to invite the panel to impose a caution order. However, in light of its findings he now invites the panel to impose a suspension order. This would give you sufficient time to address the areas of concern identified. Further, before you were allowed to return to practise you would have to undertake a return to practice course. Therefore, the public would be protected since you would not be allowed to practise straightaway.

Dr Akinoshun informed the panel of the financial difficulties you would face if you were not allowed to practise as a nurse.

Decision and reasons on sanction

Having found your 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:

- Your deliberate and repeated acts of dishonesty;
- Your limited insight into your dishonesty;
- The wider attitudinal concerns identified.

The panel also took into account the following mitigating features:

- Your engagement with the NMC and your attendance at this hearing;
- Your admissions to the charges;
- Testimonials you have provided to the panel which attest to your work and one of which attests to your honesty;
- No concerns have been raised about your clinical competency while working as a HCA;
- No evidence of further acts of dishonesty since 2013;

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 this would be incompatible with its findings of current impairment and the dishonesty identified. An order that does not restrict your 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 your misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel was of the view that the misconduct and dishonesty identified in this case was not something that can be addressed through retraining or supervision. The panel therefore concluded that placing conditions on your registration would not adequately address the seriousness of this case, would not protect the public nor meet the public interest.

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;*

The aggravating factors that the panel took into account were that the misconduct found proved was not an isolated incident. The panel noted that the misconduct and dishonesty in this case was repeated and deliberate. Further, it found it to be premeditated, systematic and done for personal financial gain. It was also concerned this demonstrated wider attitudinal concerns. Having heard your oral evidence, the

panel found that you had limited insight into your behaviour, which was not consistent with the apparent insight demonstrated in your written reflective statement. The panel recognised that it had no evidence of repetition of dishonest behaviour since 2013 and in recent years whilst working as a HCA. However, the panel was of the view that due to attitudinal concerns it has identified that you could repeat the dishonesty if you were placed in a pressured clinical environment. As a result, the panel deemed the risk of repetition to be high.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel concluded that the serious breaches of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

The panel bore in mind the submissions from Dr Akinoshun when he mentioned the fact that you have already been suspended for the same act of dishonesty in 2018. However, the panel noted that the misconduct in 2018 related to dishonestly claiming to have indefinite leave to remain by using fraudulent documentation in an application for a student bursary. The current hearing relates to you also using fraudulent documentation to apply for two nursing agencies to work. Additionally, you signed a declaration form on both application forms stating you had indefinite leave to remain in the UK when you knew this was not true.

The panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction to mark the seriousness of your misconduct – particularly your dishonesty. The panel had little evidence before it that this would not happen again and considered that it could not maintain confidence in the profession if you were not removed from the register.

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife 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?*

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the seriousness of the misconduct and dishonesty identified raised fundamental questions about your professionalism. The panel was of the view that your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. Additionally, to allow you to continue practising would not protect the public, would undermine public confidence in the profession and in the NMC as a regulatory body and would not uphold proper standards of conduct and behaviour.

The panel therefore determined that a striking-off order is the only appropriate sanction in the circumstances of this case.

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.

This will be confirmed to you in writing.

Interim order

As the striking-off 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 your

own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Bass. She submitted that an interim order should be made in order to allow for the possibility of an appeal to be made and determined. She submitted that an interim suspension order for a period of 18 months should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

Dr Akinoshun made no positive submissions.

The panel accepted the advice of the legal assessor.

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 an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.