

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

**Substantive Meeting
Tuesday 2 August 2022**

Virtual Meeting

Name of registrant:	Maidei Gloria Hukuimwe
NMC PIN:	09A0139E
Part(s) of the register:	RNMH: Mental Health Nurse, Level 1- 15 September 2009
Relevant location:	Leeds
Type of case:	Conviction
Panel members:	Scott Handley (Chair, lay member) Michael Duque (Registrant member) Melanie Swinnerton (Lay member)
Legal Assessor:	Ian Ashford-Thom
Hearings Coordinator:	Holly Girven
Facts proved:	Charges 1 and 2
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Miss Hukuimwe was not in attendance and that the Notice of Meeting had been sent to Miss Hukuimwe's registered email address on 28 June 2022.

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 the date after which the meeting would be held.

In the light of all of the information available, the panel was satisfied that Miss Hukuimwe 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 29 September 2020, at Leeds Crown Court, were convicted of the following charges;
 - a. Between 1 January 2008 and 7 April 2008, possessed/controlled an article for use in fraud (acquisition of a false birth certificate);
 - b. Between 1 March 2008 and 7 April 2008, dishonestly made a false representation to make gain for self/another or cause loss to other/expose other to risk (obtaining a passport using a false birth certificate);
 - c. On 15 April 2008, dishonestly made a false representation to make gain for self/another or cause loss to other/expose other to risk (obtaining a driving licence using a false birth certificate);
 - d. Between 1 December 2009 and 18 January 2010, dishonestly made a false representation to make gain for self/another or cause loss to other/expose other to risk (providing a false passport to gain employment as a nurse);

- e. On 8 August 2016, dishonestly made a false representation to make gain for self/another or cause loss to other/expose other to risk (submitting false documents to obtain a DBS certificate);
2. On 1 July 2021, at Leeds Crown Court, were convicted of the following charges;
- a. Between 18 January 2010 and 31 January 2019, dishonestly made a false representation to make gain for self/another or cause loss to other/expose other to risk (period of employment as a nurse);
 - b. Between 18 January 2010 and 31 January 2019, sought to engage/offered to engage/engaged in a regulated activity from which you were barred (employment without a valid CRB/DBS certificate);

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

Background

Miss Hukuimwe first entered onto the Nursing and Midwifery Council (NMC) Register on 15 September 2009 as a Mental Health Nurse.

On 28 December 2018, the NMC received a referral from South West Yorkshire Partnership NHS Foundation Trust (the Trust) in relation to Miss Hukuimwe. At the time of the concerns, Miss Hukuimwe was employed at the Trust as a Senior Clinical Practitioner.

Miss Hukuimwe holds a Zimbabwean passport, her date of birth on the passport is recorded as 30 September 1979, which is the same date of birth she provided to the University of Huddersfield, where she undertook her nursing degree. On 7 April 2008, Miss Hukuimwe was issued with a British passport. The date of birth provided to obtain a British passport was 30 September 1983.

In 2009, Miss Hukuimwe made an application for employment at the Trust. As part of the recruitment process, she was required to provide documentation to confirm her identity and right to work in the UK and to apply for a Criminal Records Bureau certificate (now known as the Disclosure and Barring Service (DBS)). The documentation Miss Hukuimwe

provided to the Trust included a UK passport and driving licence. Both of these documents showed her date of birth as 30 September 1983. The Trust also sought a reference from the University of Huddersfield. The reference that was sent to the Trust showed Miss Hukuimwe's date of birth as 30 August 1974. Miss Hukuimwe commenced employment at the Trust on 18 January 2010.

On 23 May 2018, the Trust received a letter advising that Miss Hukuimwe's DBS certificate from 2016 was no longer valid because her passport could not be verified. Miss Hukuimwe was suspended from the Trust, pending a disciplinary investigation. During the course of the investigation, the police advised the Trust that they had '*an interest*' in Miss Hukuimwe because two dates of birth has been identified for her.

During the course of the Trust's investigation, Miss Hukuimwe advised that she paid a solicitor £2,000 for a false birth certificate to obtain a British passport, which would allow her to work in the UK. Miss Hukuimwe was dismissed from the Trust on 31 January 2019.

The police interviewed Miss Hukuimwe on 13 May 2019. On 3 January 2020, the police charged Miss Hukuimwe with several offences. Miss Hukuimwe pleaded guilty to the offences specified in the charges in September 2020 and July 2021. At a hearing at Leeds Crown Court on 16 August 2021, Miss Hukuimwe was sentenced to nine months of imprisonment, suspended for 24 months; a rehabilitation activity requirement; and 120 hours of unpaid work. This sentence was imposed concurrently for each of the seven offences.

Decision and reasons on facts

The charges concern Miss Hukuimwe's conviction and, having been provided with a copy of the Certificate of Conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.—** (2) *Where a registrant has been convicted of a criminal offence—*
- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom*

- (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
- (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

In addition, the panel had regard to the documentary evidence provided, including the Case Management Form (CMF) and responses provided by Miss Hukuimwe, the sentencing remarks dated 16 August 2021 and the Trust investigatory documents.

The panel therefore found charges 1 and 2 proved in their entirety by way of the Certificate of Conviction, and Miss Hukuimwe's admission in the CMF dated 16 May 2022.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Miss Hukuimwe's fitness to practise is currently impaired by reason of her conviction. 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.

Representations on impairment

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 case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

In written submissions provided to the panel, the NMC submitted that Miss Hukuimwe's actions are a serious departure from the standards expected of a registered nurse and that her conduct has brought the profession into disrepute and is likely to erode the trust and confidence in the profession.

The NMC submitted that the final three limbs of the test in *Grant* are engaged. It was submitted that Miss Hukuimwe has clearly brought the profession into disrepute by the nature of the conduct displayed. The NMC submitted that professionalism and integrity are fundamental tenets of the profession that have been severely breached in this case. It was further submitted that the seriousness of the convictions calls into question her professionalism and trustworthiness in the workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

The NMC submitted that Miss Hukuimwe's actions were dishonest in nature, as she used a false passport to gain employment. Miss Hukuimwe's actions were premeditated, systematic and longstanding. The NMC submitted that Miss Hukuimwe has displayed some insight in the fact that she has admitted the concerns raised and engaged with the NMC. However, Miss Hukuimwe's actions were dishonest, and dishonesty is difficult, to remediate. The NMC submitted that the public would be concerned to know that a nurse was deliberately dishonest for financial gain.

The NMC submitted that there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. Miss Hukuimwe's actions risk significantly undermining public confidence in the nursing profession.

In the CMF completed on 16 May 2022, Miss Hukuimwe indicated that she accepted that her fitness to practise is impaired by reason of her conviction.

The panel accepted the advice of the legal assessor which included reference to *Grant*.

Decision and reasons on impairment

The panel went on to decide if as a result of the conviction, Miss Hukuimwe's 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 this regard the panel considered 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.'

In paragraph 76, 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

a) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

The panel finds that patients could have been put at risk as a result of Miss Hukuimwe's actions in that she has been convicted of seeking to engage in a regulated activity without having a valid DBS certificate. Miss Hukuimwe's conviction breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find a conviction which includes acting dishonestly extremely serious.

Regarding insight, whilst the panel acknowledges that whilst Miss Hukuimwe has made admissions both to the criminal charges and the charges brought her against her by the NMC, she has failed to sufficiently acknowledge and understand the impact of her actions on the wider nursing profession. The public are entitled to expect that nursing professionals will act with honesty and integrity. The panel also noted that in a statement provided to the NMC, Miss Hukuimwe indicated that she considered the sanction imposed on her to be unfair.

In its consideration of whether Miss Hukuimwe has taken steps to address the regulatory concerns, the panel considered that Miss Hukuimwe has engaged with the NMC. However, the panel determined that there is insufficient evidence for it to be satisfied that Miss Hukuimwe would not act dishonestly again.

The panel is of the view that there is a risk of repetition based on Miss Hukuimwe's limited insight and lack of evidence that she has strengthened her practice. The panel determined that Miss Hukuimwe's conduct was long standing and premeditated. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection as there is a risk that Miss Hukuimwe may act dishonestly in the future.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to

uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that, in this case, a finding of impairment on public interest grounds was required. The panel considered that Miss Hukuimwe has been convicted of several offences, which include offences of dishonesty, and received a suspended custodial sentence. The panel determined that public confidence in the nursing profession, and the NMC as its regulator, would be significantly undermined if a finding of impairment were not made.

Having regard to all of the above, the panel was satisfied that Miss Hukuimwe's 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 Miss Hukuimwe off the register. The effect of this order is that the NMC register will show that Miss Hukuimwe has 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.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 28 June 2022, the NMC had advised Miss Hukuimwe that it would seek the imposition of a striking-off order if it found Miss Hukuimwe's fitness to practise currently impaired.

In the written submissions, the NMC submitted that a striking-off order was the appropriate and proportionate order. The NMC submitted that the conduct and behaviours displayed by Miss Hukuimwe are extremely serious and must be regarded as fundamentally

incompatible with being a registered professional. The convictions, by their very nature, involve dishonesty as a nurse. The NMC submitted that the dishonesty was for personal, financial gain, and was premeditated, systematic, and longstanding. It was submitted that allowing continued registration would be seriously damaging to the reputation of the profession.

Decision and reasons on sanction

Having found Miss Hukuimwe'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:

- Limited insight
- Miss Hukuimwe's actions were long standing and premeditated
- Miss Hukuimwe acted dishonestly

The panel accepted that Miss Hukuimwe's early admissions to both the criminal charges, and regulatory concerns, were a mitigating feature in this case.

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 Miss Hukuimwe'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 Miss

Hukuimwe's case was not at the lower end of the spectrum of impaired fitness to practise 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 Miss Hukuimwe's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case, which include dishonesty. Miss Hukuimwe's fitness to practise is not impaired due to clinical concerns and is not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Hukuimwe's registration would not adequately address the seriousness of this case and would not protect the public.

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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel considered that Miss Hukuimwe's conduct was long-standing, premeditated and was done for her own personal gain. The panel determined that there is evidence of attitudinal problems due to the long-standing nature of Miss Hukuimwe's dishonest conduct. The panel determined that the serious breach of the fundamental tenets of the profession evidenced by Miss Hukuimwe's actions is fundamentally incompatible with Miss Hukuimwe remaining on the register.

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

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?*

Miss Hukuimwe's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Hukuimwe's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Miss Hukuimwe's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in 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 Miss Hukuimwe 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 Miss Hukuimwe's own interest until the striking-off 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 suspension order should be imposed for 18 months on the same grounds that a finding of impairment was necessary.

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 to cover the appeal period.

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

That concludes this determination.