

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

**Substantive Order Review Hearing  
Monday, 4 and Wednesday, 27 March 2024**

Virtual Hearing

**Name of registrant:** Grace Tayo Aina

**NMC PIN:** 04K05540

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing (Level 1) – 15 November 2005  
  
Registered Nurse – Sub Part 3  
Mental Health Nursing (Level 3) – 29 April 2005

**Relevant Location:** Bolton

**Type of case:** Misconduct

**Panel members:** Penelope Titterington (Chair, lay member)  
Sophie Kane (Registrant member)  
Rosalyn Mloyi (Registrant member)

**Legal Assessor:** Hala Helmi

**Hearings Coordinator:** Jumu Ahmed (4 March 2024)  
Franchessca Nyame (27 March 2024)

**Nursing and Midwifery Council:** Represented by Amy Taylor (4 March 2024)  
Alastair Kennedy (27 March 2024) , Case  
Presenter

**Ms Aina:** Present and represented by Mousumi  
Chowdhury, instructed by the Royal College of  
Nursing (RCN)

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

**Fitness to practise:** Impaired

**Outcome:** **Extension of 12 months current conditions of  
practice order to come into effect on 10 April  
2024 in accordance with Article 30 (1)**

## **Decision and reasons on review of the substantive order**

The panel decided to extend the current conditions of practice order.

This order will come into effect at the end of 10 April 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the seventh review of a substantive order originally imposed for a period of 3 months by a Fitness to Practise Committee panel on 12 December 2018. On that day the panel imposed a suspension order. At the first review hearing on 15 March 2019, the panel decided to extend the suspension order for a period of 6 months. On 5 September 2019, a reviewing panel decided to replace the suspension order with a conditions of practice order for a period of 9 months. On 29 May 2020, the panel decided to replace the conditions of practice order with a suspension order for a period of 6 months. On 2 December 2020, the panel decided to replace the suspension order with a conditions of practice order for a period of 12 months. On 2 December 2021, the panel varied and extended the interim conditions of practice order. On 24 February 2023, the reviewing panel confirmed and extended the order for another 12 months.

The current order is due to expire at the end of 10 April 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

*'That you, a Registered Nurse, whilst working a nightshift on 8/9 January 2017 at the Four Seasons Care Home:*

*1. Having obtained a reading and/or been made aware that Resident A's oxygen saturation level was 75% did not:*

*a. NOT PROVED*

- b. NOT PROVED
  - c. seek medical and/or emergency assistance, including:
    - i. NOT PROVED
    - ii. contact 999/ emergency services
  - d. remain with Resident A until the first responder arrived;
  - e. perform vital sign observations every 5 minutes until the first responder arrived
2. At around 06:45:
- a. did not/refused to contact 999/ emergency services for Resident A when requested by Colleague A to do so;
  - b. NOT PROVED
  - c. NOT PROVED
3. At around 07:00:
- a. did not/ refused to copy Resident A's nursing/clinical notes for the purpose of his transfer to hospital;
  - b. did not/refused to contact Resident A's next of kin
4. NOT PROVED

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

The sixth reviewing panel determined the following with regard to impairment:

*'The panel considered whether Ms Aina's fitness to practise remains impaired.*

*The panel noted that the last reviewing panel found that Ms Aina's insight was still developing. At this hearing the panel took account of Ms Aina's reflective statement. It bore in mind that the last reviewing panel asked for Ms Aina's understanding of*

*the impact of her actions on patient safety and her understanding of the importance of effective communication with colleagues and team members. It was of the view that Ms Aina has demonstrated limited understanding of these areas and has not appeared to have grasped the concerns raised at the original hearing.*

*The panel noted that Ms Aina has acknowledged “In the future I will priorities the sickest patient over the early morning tasks and other routine procedures and concentrate on the emergency.” The panel also noted that she stated:*

*“...Staying with the sick resident will enable me not to put a trust on a colleague when come to an emergency situation especially the unqualified ones...”*

*The panel was of the view that Ms Aina appears to be blaming others and not acknowledging her own failings. However, the panel noted that Ms Aina is remorseful and has recognised that she did not act appropriately during the incident. As a result, it was of the view that her insight is still developing.*

*The panel also took account of the training Ms Aina has undertaken. While it noted that it does not address the areas of concern, the panel is encouraged by her attempts to stay up to date.*

*The panel is also encouraged at the attempts Ms Aina has made to find employment. It acknowledged that she had secured a nursing role at Braeside Nursing Home, however they were unable to support her with the conditions of practice. As result, she has not been able to comply with her conditions and demonstrate strengthened practice.*

*The panel noted that the concerns related to a deteriorating patient. It was of the view that it may be difficult for her to demonstrate what she would do differently in a similar situation as Ms Aina is not currently working in a clinical setting.*

*The panel determined that there was little material change in the circumstances of this case since the last hearing and in the level of risk previously identified. In the*

*absence of any evidence to the contrary, the panel could not be satisfied that Ms Aina no longer poses a risk to patient safety. It considered there to be a real risk of repetition of the events and a risk of significant harm to patients in her care, should she be permitted to return to unrestricted nursing practice. It also bore in mind that Ms Aina accepts that she is currently impaired. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.*

*The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.*

*For these reasons, the panel finds that Ms Aina's fitness to practise remains impaired.'*

The sixth reviewing panel determined the following with regard to sanction:

*'The panel was of the view that continuing the current conditions of practice order is sufficient to protect patients and the wider public interest, noting that there are no deep-seated attitudinal problems, there are identifiable areas of Ms Aina's practice in need of assessment and/or retraining and she has demonstrated a willingness to respond positively to retraining.*

*The panel was of the view that continuing the current order will give Ms Aina the opportunity to demonstrate that she can practise safely and address the failings highlighted in her case.*

*The panel considered that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of Ms Aina's case. It bore in mind that she is making efforts to find employment as a registered nurse. It noted that Ms Aina had gained such employment in August 2022 but she had to leave that employment as her employer could not support her conditions of practice. As Ms Aina is still trying to find*

*employment a suspension order or a striking off order would prevent her from strengthening her practice.*

*Accordingly, the panel determined, pursuant to Article 30(1)(a) to extend the current conditions of practice order for a further period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 10 April 2023. It determined that the following conditions remained appropriate and proportionate in this case:*

*'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'*

- 1. You must not be the nurse in charge of a shift.*
- 2. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of, another registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.*
- 3. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a detailed personal development plan designed to evidence how you have strengthened your practice in the following areas:*
  - a) How to manage and respond to deteriorating patients.*
  - b) How to deal with emergency situations.*
  - c) How to communicate and work with colleagues in emergency situations.*

*The evidence should include completion of any relevant training identified in the plan.*

4. *You must meet with your line manager, mentor or supervisor (or their nominated deputy) every 2 weeks for a period of 3 months and then subsequently monthly to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*
5. *You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before an NMC review hearing or meeting.*
6. *You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*
7. *You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.*
8. *You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.*

9. *You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.*
10. a) *You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name and contact details of the individual or organisation offering the post, employment or course of study.*
- b) *You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.*
11. *You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (10) above, to them:*
- a) *Any organisation or person employing, contracting with, or using you to undertake nursing work;*
- b) *Any agency you are registered with or apply to be registered with (at the time of application);*
- c) *Any prospective employer (at the time of application) where you are applying for any nursing or midwifery appointment; and Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).*

*The period of this order is for 12 months.*

*This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 10 April 2023 in accordance with Article 30(1).*



*Before the end of the period of the order, a panel will hold a review hearing to see how well Ms Aina has complied with the order. At the review hearing the panel may make no order, it may further extend the conditions of practice order, or it may make any order that it could have made at the time the substantive order was imposed.*

*Any future panel reviewing this case would be assisted by:*

- *An up to date reflective piece addressing your understanding of the impact of your actions on patient safety. This should include your understanding of the importance of effective communication with colleagues and team members.*
- *Your continuing engagement with the NMC.*
- *Evidence of any training relevant to your conditions of practice order which has kept your nursing skills up to date.*
- *Written reference or testimonials from any employer, whether working as a nurse or elsewhere.*
- *Your attendance at a future hearing.'*

## **Decision and reasons on current impairment**

The panel considered carefully whether your fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle, and your bundle. It has taken account of the submissions made by Ms Taylor on behalf of the NMC and Ms Chowdhury on your behalf.

Ms Taylor provided the background of the case and referred the panel to the documentation. She told the panel that you had complied with majority of the conditions of

the previous panel's recommendations. She submitted that there had been little material change since the last review hearing, however she appreciated that you had experienced difficulty in finding a suitable role for you that would allow you to fully comply with the conditions.

Ms Taylor submitted that the NMC was neutral as to what order the panel should impose.

The panel also had regard to Ms Chowdhury's submissions. She submitted that the conditions of practice order should be confirmed, but to vary conditions 1 and 2. She told the panel that you had not been able to practise as a registered nurse since the imposition of the order as there were difficulties in you securing employment with these conditions. However, you had utilised this time by becoming familiar with the NMC's Code of Conduct and re-training, and you had provided the panel with two training certificates.

Ms Chowdhury informed the panel that, very recently, you were offered two potential roles at Thorncliffe Grange Home ('the Thorncliffe'), which was the most positive prospect regarding a potential nursing employment you have had. She said that you are seeking the panel's assistance to give you the opportunity to take this role, and to help remediate your practice. Ms Chowdhury said that you were offered two different roles. The first offer was for you to work as a registered nurse in charge, or alternatively to begin as a senior carer supporting the nurses and if after three months you are considered successful then you would be placed as the nurse in charge under the home's current manager, Ms 1 who is also a registered nurse.

Ms Chowdhury told the panel that Ms 1 had provided the panel with an email confirming that you would be able to comply with conditions 3 and 4 of the conditions of practice order. However, there was an issue with conditions 1 and 2 as you would be the nurse in charge and that you would be required to work from 7am to 7pm, which meant that you would not be supervised for three hours during that time. She said that whilst Ms 1 would be present from 8am to 5pm, she would be working remotely outside those hours which meant that she would be contactable by telephone. Therefore, that would leave you as the only nurse in charge from 7 – 8am and 5 – 7pm. Ms Chowdhury invited the panel to vary conditions 1 and 2 to enable you to work at Thorncliffe.

Ms Chowdhury submitted that the risk has decreased significantly given the passage of time, and because of the regular training you had engaged in to improve your practice. You have also had time to reflect. She submitted that you had been registered as a nurse since 2004 and prior to the incident in 2017, there was nothing to suggest that your clinical practise was unsafe and therefore the risk of repetition is very low.

Ms Chowdhury submitted that you accept that there was a risk to patients and the public interest. However, as you were not employed since 2018, the panel could not accept that you would simply return to work without any conditions attached. Therefore, she invited the panel to leave the conditions of practise order in place. She said that trust needs to be rebuilt, and that you are to be supported by conditions to allow you to practise safely and to eventually practise without any restrictions. Therefore, in enabling you to accept this position at the Thorncliffe, it will be a stepping stone for you.

In response to the panel's question, you gave evidence under oath. You said that you went to check the residents' observations and immediately saw that the oxygen level was low. Instead of calling 999, you called 111. You said that you were just following the unit's procedure, which was a mistake.

You told the panel that these incidents will not be repeated because of all the training you did. You said that even though you would not be supervised for a couple of hours, you would be okay because you can contact Ms 1 via telephone. You also said that if Ms 1 was off work, then you would not need additional support.

Ms 1 gave oral evidence. She described the Thorncliffe to the panel. She told the panel that the role she was offering you includes a basic level of nursing care. She also said that from 8am to 10pm, nurses and healthcare professionals can call an online team of healthcare professionals for help, which is called '*Digital Health*'. She said that there are staff on the unit who can help you. She also said that if conditions 1 and 2 were still included in your conditions of practice order, she would not be able to employ you.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether your fitness to practise remains impaired.

The panel noted that the last reviewing panel found that your insight was still developing and that you had demonstrated limited understanding of these areas and have not appeared to have addressed the concerns raised at the original hearing.

The panel was of the view that your insight has improved but that it is still developing as you still have not addressed the concerns raised. At the hearing, you assured the panel that such incidents will not happen again. However, you did not demonstrate sufficient insight into why, as an experienced nurse, you made these errors in the first place, nor did you detail any steps you have taken to make sure the incidents would not be repeated. The panel therefore remained concerned about your decision-making process.

In its consideration of whether you have taken steps to strengthen your practice, the panel noted that you have undertaken training in '*Immediate Life Support*' and the Statutory & Mandatory courses. However, these courses do not directly address the concerns around your ability to recognise and react appropriately to deteriorating patients, and are not sufficient to address your current impairment. The panel was not persuaded that that you are no longer impaired. The panel therefore determined that there remains a real risk that matters of the kind found proved could be repeated. The panel decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel found that a reasonable and fully informed member of the public would be concerned about your as yet unremediated lack of judgment. The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.

## **Decision and reasons on sanction**

Having found your fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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 registrant'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 registrant's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you have been unable to comply with conditions of practice due to their current employment status but that you are engaging with the NMC and are willing to comply with any conditions imposed.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest, noting as the previous panel did that there was no evidence of general incompetence or deep-seated attitudinal problems and that the misconduct related to poor clinical judgement. In this case, there are conditions could be formulated which would protect patients during the period they are in force.

The panel took into account your request to vary conditions 1 and 2. The panel noted that this was your first nursing job offer since the imposition of a substantive order and how difficult it had been for you to find an offer that would allow you to practise under the conditions of the order. However, the panel noted that as there would be no other nurse at the Thorncliffe, you would not be supervised during periods where Ms 1 was away. Subsequently, as the only registered nurse, you would be the nurse to make the decisions for those residents at those times. The panel recognised that you would be able to make a call to either your supervisor or a helpline but found that this would depend on you making a judgement call about when that was appropriate. The panel noted that at the time of the incidents you were the nurse in charge at the Home and find that the misconduct in this case related to you not calling for help when you should have done. The panel also noted that you have not been practising as a registered nurse since the imposition of the substantive order on your NMC PIN in 2018. It therefore could not be satisfied that the risk of repetition would be addressed if the conditions of practice order was amended in the way suggested.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because you are trying to comply with the requirements of the current order and you have engaged with the NMC process.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 10 April 2024. It decided to continue the following conditions which it considered are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also,

'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.'

1. You must not be the nurse in charge of a shift.
2. At any time that you are employed or otherwise providing nursing services, you must place yourself and remain under the supervision of a workplace line manager, mentor or supervisor nominated by your employer, such supervision to consist of working at all times on the same shift as, but not necessarily under the direct observation of, another registered nurse who is physically present in or on the same ward, unit, floor or home that you are working in or on.
3. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a detailed personal development plan designed to evidence how you have strengthened your practice in the following areas:
  - a) How to manage and respond to deteriorating patients.
  - b) How to deal with emergency situations.
  - c) How to communicate and work with colleagues in emergency situations.

The evidence should include completion of any relevant training identified in the plan.

4. You must meet with your line manager, mentor or supervisor (or their nominated deputy) every 2 weeks for a period of 3 months and then subsequently monthly to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
5. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC at least 14 days before an NMC review hearing or meeting.
6. You must allow the NMC to exchange, as necessary, information about the standard of your performance and your progress towards achieving the aims set

out in your personal development plan with your line manager, mentor or supervisor (or their nominated deputy) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.

7. You must disclose a report not more than 28 days old from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to any current and prospective employers (at the time of application) and any other person who is or will be involved in your retraining and supervision with any employer, prospective employer and at any educational establishment.
8. You must tell the NMC within 14 days of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
9. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 14 days of you receiving notice of them.
10. You must within 14 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name and contact details of the individual or organisation offering the post, employment or course of study.
11. You must within 14 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.
12. You must immediately inform the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures, and disclose the conditions listed at (1) to (10) above, to them:



- a) Any organisation or person employing, contracting with, or using you to undertake nursing work;
- b) Any agency you are registered with or apply to be registered with (at the time of application);
- c) Any prospective employer (at the time of application) where you are applying for any nursing or midwifery appointment; and Any educational establishment at which you are undertaking a course of study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).

The period of this order is for 12 months to reflect the level of insight you have demonstrated and the steps you have taken to address the concerns, but to also reflect the seriousness of the misconduct found proved.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 10 April 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- An up to date reflective piece addressing your understanding of the impact of your actions on patient safety. This should include identifying a deteriorating patient and your understanding of the importance of effective communication with colleagues and team members.
- Your continuing engagement with the NMC.
- Evidence of any training relevant to your conditions of practice order which has kept your nursing skills up to date.
- Written reference or testimonials from any employer, whether working as a nurse or elsewhere.

- Your attendance at a future hearing.

This will be confirmed to you in writing.

That concludes this determination.