

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

**Substantive Meeting  
Thursday, 29 June 2023**

Virtual Hearing

**Name of Registrant:** Isaac Mugisa

**NMC PIN** 21E02020

**Part(s) of the register:** Registered Nurse - Adult RNA  
Nursing 9 May 2021

**Relevant Location:** Northern Ireland

**Type of case:** Conviction

**Panel members:** Des McMorrow (Chair, Registrant member)  
Lorraine Shaw (Registrant member)  
Caroline Taylor (Lay member)

**Legal Assessor:** Paul Housego

**Hearings Coordinator:** Catherine Acevedo

**Facts proved:** Charge 1a

**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 the Notice of Meeting had been sent to Mr Mugisa's registered email address by secure email on 25 May 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting was to be heard virtually.

In the light of all of the information available, the panel was satisfied that Mr Mugisa 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 27 May 2021 at Newry and Mourne Magistrates Court, were convicted of the following offence:*
  - a. *On 11 February 2021, you sexually assaulted a person, contrary to Article 7(1) of the Sexual Offences (NI) Order 2008;*

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

## **Background**

On 27 May 2021 Mr Mugisa was convicted at Newry and Mourne Magistrates Court following a trial for sexually assaulting a female colleague on 11 February 2021. Mr Mugisa was sentenced to 3 months imprisonment, suspended for 18 months. He was also placed on the Sex Offenders Register for 5 years.

Mr Mugisa appealed to Newry County Court. However, the appeal was not upheld.

On 18 February 2022 the Nursing and Midwifery Council ('NMC') raised a referral about Mr Mugisa following information provided by the NMC's Registrar and Appeals Support Team ('RAST'). RAST explained that Mr Mugisa was removed from the temporary Register on 18 March 2021 following an allegation that he had sexually assaulted a female colleague. It was alleged that Mr Mugisa intentionally kissed a female colleague in a sexual manner and without consent. At the relevant time, Mr Mugisa was working as a nurse for Healthcare Ireland Group ('HIG'). Mr Mugisa was arrested by the Police Service Northern Ireland ('PSNI') on 11 February 2021.

Mr Mugisa attended a probationary review meeting with his employer on 12 February 2021 where his employment was terminated due to him showing limited insight into his actions and a limited understanding of the NMC Code and the HIG's policy on bullying and harassment.

Mr Mugisa subsequently applied to join the permanent Register as an overseas applicant but did not declare the reasons he was removed from the NMC's temporary Register. His application to join the permanent Register was approved on 9 May 2021.

The NMC's Screening decision maker decided that this was not an Incorrect Entry, Fraudulent Entry ('IEFE') matter as Registrants are only obliged to declare cautions and convictions, and at the time Mr Mugisa applied to join the permanent Register, he had only been reported for sexual assault. Therefore, no further action was taken in relation to this.

Following Mr Mugisa's arrest on 11 February 2021, he was charged and subsequently convicted on 27 May 2021 of sexual assault, contrary to Article 7(1) of the Sexual Offences (NI) Order 2008.

### **Decision and reasons on facts**

The charge concerns Mr Mugisa'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.’*

### **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Mugisa’s fitness to practise is currently impaired by reason of Mr Mugisa’s 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).

The NMC invited the panel to find Mr Mugisa’s fitness to practise impaired on the grounds of public protection and public interest. It was submitted by the NMC that Mr Mugisa’s conviction is in relation to a serious offence of a sexual nature which is likely to cause physical, emotional and psychological harm to the victim. Mr Mugisa has not provided the NMC with a reflective piece and has not demonstrated any remorse. Therefore, he may be liable in the future to bring the nursing profession into disrepute should the incident be

repeated. Mr Mugisa has breached fundamental tenets of the profession by the very nature of his conviction. Registered professionals occupy a position of trust and must act and promote integrity at all times.

The NMC submitted that there are no apparent steps for Mr Mugisa to take to address the identified problems as there is a lack of full insight and the concerns cannot be addressed via training because there are no identifiable issues with his clinical practice.

The NMC submitted that Mr Mugisa has displayed no insight. He has not provided any evidence of strengthened practice, in the form of a reflective statement addressing how his actions are likely to have impacted his colleague, the wider public or the profession. Furthermore, he has not shown any remorse or regret following his conviction.

The NMC submitted that there is a continuing risk to the public due to Mr Mugisa's lack of insight, remorse and regret. They also considered 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 and to maintain public confidence in the profession.

The panel accepted the advice of the legal assessor.

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

The panel determined that Mr Mugisa had breached the following standards of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ('the Code').

***“1 Treat people as individuals and uphold their dignity***

***1.1 treat people with kindness, respect and compassion.***

***20 Uphold the reputation of your profession at all times***

***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 and without discrimination, bullying or harassment.***

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

The panel next went on to decide if as a result of the conviction, Mr Mugisa'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. 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/their fitness to practise is impaired in the sense that S/He/They:*

- 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*

*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...*

The panel found that although no patients were put at risk of harm as a result of Mr Mugisa's conviction, it did cause harm to a member of the public. The panel found that Mr Mugisa had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel noted that Mr Mugisa had not engaged with the NMC for these proceedings and he has therefore not provided any evidence of insight or remorse for his conviction. It noted that Mr Mugisa pleaded not guilty and was convicted of a serious sexual offence which he later appealed, and the appeal was not upheld. It also noted that Mr Mugisa subsequently applied to join the permanent Register as an overseas applicant but did not declare the reasons he was removed from the NMC's temporary Register. The panel also saw no evidence that Mr Mugisa had taken steps to address the concerns.

The panel is of the view that there is a risk of repetition based on the lack of evidence of any insight or steps taken to address the concerns. The panel noted that there was no evidence of patient harm. However, the victim is a member of the public and the behaviour leading to the conviction took place in a work environment. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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 also required. It considered that there was high public interest in a finding of impairment being made for a registrant who has been convicted of a serious sexual offence and has been placed on the sex offenders register for 5 years.

Having regard to all of the above, the panel was satisfied that Mr Mugisa'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 Mr Mugisa off the register. The effect of this order is that the NMC register will show that Mr Mugisa 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 NMC consider the appropriate and proportionate sanction in this case to be a 12-month suspension order with review. They state that having regard to the NMC's sanctions guidance the following aspects led them to this conclusion and looking at each of the sanctions in turn:

The NMC submit that the case is too serious to take no action or to impose a caution order and would only be appropriate if there was no risk to the public or to patients. Therefore, these sanctions are not sufficient to ensure public protection.

The NMC submitted that a conditions of practice order would not be appropriate to address the concerns given that there is evidence that Mr Mugisa's behaviour could be as a result of personality or attitudinal problems. It is difficult to address the concerns in this case through retraining or assessment as Mr Mugisa has returned to Uganda. It is submitted that it would be difficult to formulate workable conditions of practice which would address the concerns raised and protect the public.

The NMC submitted that Mr Mugisa has been convicted of a serious criminal offence and was sentenced to 3 months imprisonment, suspended for 18 months. His behaviour raises fundamental questions about his trustworthiness as a nurse, which ordinarily would be a



factor going towards striking-off. However, balancing this with the fact that it was a single instance of misconduct and there has been no evidence of repetition since the incident, it is the NMC's view that a suspension order of 12 months is the appropriate sanction in order to protect public trust and confidence in the profession.

### **Decision and reasons on sanction**

Having found Mr Mugisa'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:

- Mr Mugisa's conviction was for a serious sexual offence and he has been placed on the sex offenders register for 5 years.
- Mr Mugisa has not engaged with the NMC and has not provided any information for these proceedings.
- The conduct leading to Mr Mugisa's conviction involved a colleague and took place in the workplace.
- Lack of evidence of insight and remorse.

The panel was of the view that there are no mitigating features in Mr Mugisa's 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 neither protect the public nor be in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Mugisa's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the*

*spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.*' The panel considered that Mr Mugisa's 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 Mr Mugisa'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. The behaviour identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Mugisa'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 panel considered that Mr Mugisa's conduct leading to the conviction and his complete lack of insight demonstrated harmful deep-seated personality or attitudinal problems. Although, there is no evidence that Mr Mugisa has repeated his behaviour since this incident, the panel was not satisfied that he does not pose a significant risk of repeating behaviour. The panel was of the view that the conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel decided that the serious breach of the fundamental tenets of the profession evidenced by Mr Mugisa's actions is fundamentally incompatible with Mr Mugisa 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?*

Mr Mugisa's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Mugisa's actions were serious and to allow him 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 Mr Mugisa's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, 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 decision will be confirmed to Mr Mugisa 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 Mr Mugisa's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Representations on interim order**

The NMC submitted that if a finding is made that Mr Mugisa's fitness to practise is impaired on a public protection basis and a restrictive sanction imposed, an interim order in the same terms as the substantive order they sought should be imposed because it is necessary for the protection of the public and otherwise in the public interest.

The NMC also submit that if a finding is made that Mr Mugisa's fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registration, an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.

### **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 Mr Mugisa is sent the decision of this hearing in writing.

That concludes this determination.