

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

**Substantive Hearing
Wednesday 27 March – Thursday 28 March 2024**

Virtual Hearing

Name of Registrant: Helen Ngeh Tadiafor

NMC PIN: 05D0674E

Part(s) of the register: Registered Nurse - Mental Health
Adult Nursing (September 2005)

Relevant Location: Oxford

Type of case: Conviction

Panel members: Rachel Childs (Chair, lay member)
Elaine Biscoe (Registrant member)
Gill Mullen (Lay member)

Legal Assessor: Emma Boothroyd

Hearings Coordinator: Rene Aktar

Nursing and Midwifery Council: Represented by Uzma Khan, Case Presenter

Ms Tadiafor: Present and represented by Simonde Demba

Facts proved: Charge 1

Facts not proved: N/A

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 28 October 2021, at Oxford Crown Court, were convicted of the offence of 'Concealing Criminal Property'

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

Background

The conviction is for a money laundering offence, also known as the concealment of property under the Proceeds of Crime Act 2002. You were sentenced on 7 August 2023 and given a custodial sentence of 18 months, suspended for two years.

In addition, you were required to do 150 hours of unpaid work and 20 rehabilitation activity requirement days were added to the order. The offence itself relates to offending between January 2006 and December 2016.

Mr 1, who was identified as having a significant role as the main perpetrator, was involved in a series of immigration and money laundering offences.

Mr 1 was found to have exploited vulnerabilities in the immigration system to recruit workers illegally, disregarding company policies and facilitating fraudulent activities. He was identified as being the principal offender, abusing his position as a supervisor and a manager.

Mr 1 recruited and exploited illegal immigrants for financial gain during the period he was managing two companies that were contracted by Sainsbury's to supply cleaning staff. Mr 1 deliberately undermined immigration control during this process for financial gain,

recruiting the illegal immigrants, turning a blind eye to fake identity documents and paying wages into his own and others' accounts, violating company policies. Mr 1 exerted complete control over the illegal workers, housing them in his properties and threatening to reveal their status if they refused to comply. He also orchestrated a sophisticated scheme involving falsified documents and cash payments.

You were found guilty of assisting him to launder money through a number of bank accounts. He himself had accumulated significant wealth through his criminal activities. That was evidenced by a property portfolio of 19 properties.

The offence involved a sum of over £200,000. There were 11 identified workers who had their wages paid through various accounts, 5 of which were in your name. The offence spanned a period of 8 years.

Decision and reasons on facts

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

Charge 1

1. On 28 October 2021, at Oxford Crown Court, were convicted of the offence of 'Concealing Criminal Property'

This charge is found proved.

The charge concerns your conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the fact is found proved in accordance with Rule 31(2):

(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.

Fitness to practise

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

Impairment

You gave evidence under affirmation that Mr 1 was a manager of two cleaning firms. He asked you for permission to use your personal bank account to receive payments for other workers who were unable to set up their own bank accounts themselves. You said that you did not see a problem with this at the time and agreed to do this. You said that sometimes you would sign blank cheques and give them to him, and he would cash them.

You said that on reflection, you feel disappointed, let down and betrayed by the whole process. You said that you did not benefit from this. You said that this has taught you a great lesson on how to monitor accounts. You submitted that you regret this action and that you would have done this differently if someone had given you advice. You said that you trusted Mr 1 and that this process has made it difficult for you to trust people.

During cross examination, you explained that you knew nothing of Mr 1's family income. You said that you did not know what he was doing was illegal as you saw him as a manager asking you to do something and you trusted him.

Submissions on impairment

Ms Khan addressed the panel on the issue of impairment and reminded the panel 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. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Ms Khan submitted that this conduct is not easily remediable and that it would be necessary for the panel to make a finding of current impairment on public interest grounds. She submitted that this is ultimately serious criminality due to the nature of the conviction. Ms Khan submitted that this is conduct which is capable of bringing the nursing profession into disrepute.

Ms Khan submitted that although this is a single conviction, the offending occurred over a lengthy period of time on numerous occasions. She submitted that this conduct is not associated with clinical practice and that it can be difficult to undertake any training or courses that may assist. She submitted that you have not demonstrated sufficient insight. Ms Khan submitted that this is a breach of the professional standard and public trust.

Mr Demba, on your behalf, submitted that your fitness to practise is impaired by reason of your conviction. He submitted there are some mitigating circumstances in this case which should be considered. Mr Demba submitted that it may be open to the panel to consider whether in fact your behaviour has been remediated.

Mr Demba submitted that you had limited involvement in the case as well as limited awareness. He submitted that you are a nurse that has always been dedicated to patients and that you went along with what was said to you. He submitted that this was a one-off incident.

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the conviction, 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 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*
- 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 found that limbs b-d of the Grant test were engaged. It determined that your actions had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Furthermore, it considered that confidence in the nursing profession would also be undermined if this panel did not find your fitness to practice was impaired given the nature and seriousness of your criminal conviction.

The panel had regard to the NMC Guidance on impairment especially the question which states:

'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

The panel considered that a conviction of this nature raised serious questions about your ability to practise professionally.

The panel also had regard to the case of *Cohen v GMC* [2008] EWHC 581 (Admin), where the court addressed the issue of impairment with regard to the following three considerations:

- a. 'Is the conduct that led to the charge easily remediable?'*
- b. Has it in fact been remedied?'*
- c. Is it highly unlikely to be repeated?'*

The panel is aware that this is a forward-looking exercise and, accordingly, it considered whether your conduct is remediable and whether it has been remedied. The panel considered whether your actions as found in the charges proved are easily remediable. Clinical concerns are potentially easier to remedy than a serious criminal conviction of this nature. Honesty, integrity and trustworthiness are the bedrock of the nursing profession and, in acting in this way, you breached fundamental tenets of the nursing profession and brought the reputation of the nursing profession into disrepute. The panel considered that, while your conviction was not directly related to your clinical practice, a conviction for such a serious offence could only undermine confidence in the nursing profession if a finding of impairment was not made. The conviction had resulted in a custodial sentence, albeit suspended, and related to the laundering of a significant sum of money over a period of 8 years. Such persistent and premeditated criminal activity is, in the panel's view, indicative of deep-seated attitudinal concerns which are difficult to remedy.

The panel bore in mind sentencing remarks of the Judge in relation to Mr 1:

“You knew these people you took on were vulnerable, due to their lack of immigration status. You took advantage of them. Many of them relied on you providing a roof over their heads, though they had to pay for it. You were in complete control of them. They did exactly as you directed them. If they refused, you threatened to reveal their status.”

The panel considered that in allowing your bank accounts to be used in this way, you facilitated the exploitation of these vulnerable workers.

The panel went onto consider the question of insight. It acknowledged your sadness and regret for the conduct that led to your conviction. However, it considered that your insight was limited as you were not able to explain fully the impact that such a conviction would have upon your colleagues and upon wider public confidence in the profession. The panel accepted that it was difficult for you to reflect on the circumstances that led to your conviction as you appear not to not accept fully the findings of the jury in terms of intent, but you did not demonstrate any insight into how a conviction of this nature would undermine professional standards and public confidence.

The panel considered that you could have gone much further in terms of reflecting on how you had become involved in the criminal activity from which you were convicted. It was also of the view that you had not demonstrated any sympathy or awareness of the impact of your behaviour on those workers who had been exploited. The panel was therefore unable to conclude that you had fully developed your insight. In these circumstances, the panel considered that there was a risk of repetition.

The panel took note of the supportive testimonials provided by two of your friends, alongside recent training records but considered that these were insufficient to assure the panel that you had remediated, and your actions would not be repeated.

The training did not relate to professional conduct or the duty of candour.
The testimonials were not from other registered nurses.

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, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession and in the NMC as a regulatory body.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on public protection and public interest grounds.

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 Khan informed the panel that in the Notice of Hearing dated 22 February 2024, 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 Khan submitted that the conviction involved serious criminality. She submitted that the public and fellow practitioners expect nurses to act within the law and to act with honesty and integrity at all times.

Regarding a conditions of practice order, she submitted that given the nature of the conviction and the dishonesty involved, it would not be possible to formulate appropriate or suitable conditions to address the concerns. She submitted that there were no concerns about your clinical practice. However, the attitudinal concerns could not be addressed through imposing conditions.

Ms Khan submitted that a suspension order would not be appropriate or proportionate either given the serious issues identified. She submitted that your conviction was fundamentally incompatible with you remaining on the NMC register, and that a temporary removal from the NMC register would not be appropriate or proportionate.

Ms Khan submitted that this was not a one-off incident and that there was financial gain. She submitted that such serious attitudinal concerns were incompatible with you remaining on the register. Ms Khan submitted that a striking-off order was the only appropriate order.

Mr Demba invited the panel to take no further action. He submitted that your behaviour has been remediated and that there is no risk of repetition. Mr Demba submitted that you are a nurse with over 19 years of experience and that you have much to offer to the profession. He submitted that you did not present any risks to patients.

Mr Demba submitted that the panel should give consideration to the fact that you developed a relationship with someone who, in your view, was someone who was in need. He submitted that you were not motivated by any financial gain.

Mr Demba submitted that you could be seen as a victim in these circumstances and that this should not be reason for the loss of your job. He submitted that you are deeply sorry

to everyone around you, including the nursing profession. Mr Demba submitted that you have indicated remorse and insight. He submitted that you would not repeat this behaviour and that this is completely out of character. Mr Demba submitted that you are a nurse with a good record of 19 years' experience and that you were led into criminality.

Mr Demba submitted that no further action is the most appropriate and proportionate sanction, given the context and the circumstances of this case.

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

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:

- Pattern of conduct over a period of 8 years involving a number of vulnerable victims
- The money laundering involved 5 of your bank accounts and a significant amount of money, over £200,000
- Your actions facilitated the exploitation of vulnerable people
- Lack of insight into the impact on others, particularly the victims of the criminal activity

The panel also took into account the following mitigating features:

- Some remorse expressed

- Admissions to your fitness to practice being impaired
- You were not the instigator of the criminal activity

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 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 conduct 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 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 conduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your 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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel considered that, while the charge related to a single conviction, this conviction involved a pattern of behaviour over a considerable period of time. It could not therefore be reasonably described as a “*single instance of misconduct*”. The panel further bore in mind its previous finding that the conviction raised serious attitudinal concerns and its finding that there was a risk of repetition due to your lack of insight. It accepted that you had not repeated the conduct that led to your conviction but considered that this was insufficient on its own to support the imposition of a suspension order. The conduct that led to your conviction, was a significant departure from the standards expected of a registered nurse. The panel considered that such a serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register.

In addition, the panel noted you were sentenced in August 2023 to an 18-month term of imprisonment which was suspended for 2 years. You are still within the operative period of that sentence. The panel could not identify any good reason to depart from the principle as outlined in the case of Council for the Regulation of Healthcare Professionals v General Dental Council and Fleischmann [2005] EWHC 87. The panel took into account the delay between your conviction and sentence and also that the period of suspension of the sentence was 6 months longer than if you had been sentenced to immediate

custody. However, the panel concluded that public confidence in the profession could not be maintained with the imposition of a suspension order even for the maximum 12 months.

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

Finally, in considering 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?*

The panel bore in mind the NMC Guidance SAN-3E which states:

“The courts have supported decisions to strike off healthcare professionals where there has been lack of probity, honesty or trustworthiness, notwithstanding that in other regards there were no concerns around the professional’s clinical skills or any risk of harm to the public.¹ Striking-off orders have been upheld on the basis that they have been justified for reasons of maintaining trust and confidence in the professions.”

The panel noted the comments of the sentencing Judge, in which he indicated that he did not think that your conviction should result in the loss of your nursing career. It agreed that the conviction did not raise concerns about your clinical competence as a nurse. However, the panel considered that the nature and seriousness of the conviction meant that public

trust and confidence could not be maintained if you were allowed to remain on the register.

The panel determined that your conduct was a significant departure from the standards expected of a registered nurse and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were extremely serious and to allow you to continue practising would seriously undermine public confidence in the profession and in the NMC as a regulatory body. The panel recognised the adverse effect that a striking off order may have on you but was mindful of case law and of the NMC's own guidance that the reputation of the nursing profession is more important than the fortunes of an individual nurse.

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 effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct yourself, 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 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 Khan. She submitted that an interim suspension order for a period of 18 months is necessary to protect the public and is otherwise in the public interest.

Mr Demba did not object to the application.

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 due to the seriousness of the case.

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.