

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

**Substantive Order Review Hearing
Wednesday 17 July 2024**

Virtual Hearing

Name of Registrant: Elizabeth Mary Sheldon

NMC PIN: 21A1929E

Part(s) of the register: Registered Nurse - Sub Part 1
Adult Nursing - September 2021

Relevant Location: Derby City

Type of case: Lack of competence

Panel members: Scott Handley (Chair, Lay member)
Jason Flannigan-Salmon (Registrant member)
Vicki Harris (Lay member)

Legal Assessor: David Marshall

Hearings Coordinator: Khadija Patwary

Nursing and Midwifery Council: Represented by Sophia Ewulo, Case Presenter

Mrs Sheldon: Not present and unrepresented

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

Fitness to practise: Impaired

Outcome: **Conditions of practice order (6 months) to come into effect on 23 August 2024 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Sheldon was not in attendance and that the Notice of Hearing had been sent to Mrs Sheldon's registered email address by secure email on 12 June 2024.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Sheldon's representative on 12 June 2024.

Ms Ewulo, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Sheldon's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Sheldon has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Sheldon

The panel next considered whether it should proceed in the absence of Mrs Sheldon. The panel had regard to Rule 21 and heard the submissions of Ms Ewulo who invited the panel to continue in the absence of Mrs Sheldon. She submitted that Mrs Sheldon had voluntarily absented herself.

Ms Ewulo referred the panel to an email from Mrs Sheldon to her NMC case officer dated 12 June 2024 in which she stated that:

'I am writing to inform you that I will not be attending the upcoming hearing. I have made the difficult decision to no longer pursue a career in nursing.'

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Sheldon. In reaching this decision, the panel has considered the submissions of Ms Ewulo and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Sheldon;
- Mrs Sheldon has informed the NMC by email on 12 June 2024 that she will not be attending the hearing;
- Mrs Sheldon's representative had also confirmed by email on 2 July 2024 that they would not be able to attend the hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Sheldon.

Decision and reasons on application for hearing to be held in private

Ms Ewulo, on behalf of the NMC, made a request that this hearing be held partly in private on the basis that proper exploration of Mrs Sheldon's case involves [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there may be references to [PRIVATE], the panel determined to hold parts of the hearing in private in order to preserve the confidential nature of those matters. The panel is satisfied that these considerations justify that course, and that this outweighs any prejudice to the general principle of hearings being in public.

Decision and reasons on review of the substantive order

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

This order will come into effect at the end of 23 August 2024 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 26 July 2023.

The current order is due to expire at the end of 23 August 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, between 24 January 2022 and 30 March 2022 failed to demonstrate the standards of knowledge, skill, and judgement required to practise without supervision as a band 5 nurse, in that you;

- 1) Did not complete your probationary period following its commencement on 24 January 2022.*
- 2) Referred to a patient who was having a gastroscopy as having a colonoscopy.*
- 3) Incorrectly informed Patient C that that they would have to undergo a pregnancy test by providing a urine sample, before they could go into theatre for surgery.*
- 4) After being informed by the surgical team that intermittent self-catheterisation could be performed on Patient C, did not follow up the request with the theatre/colleagues/surgical team.*

- 5) ...
- 6) *Between 24 January 2022 and 30 March 2022 worked under a supervised capacity at all times.*
- 7) *On 24 January 2022;*
 - a) ...
 - b) *Were unable to adequately operate a blood pressure machine.*
 - c) ...
 - d) *Initially instructed Patient A to shave themselves.*
 - e) *After shaving Patient A, left hair;*
 - i. *Over the bathroom floor.*
 - ii. *In Patient A's pants.*
 - iii. *In Patient A's gown.*
 - f) *After Patient A complained of being cold, told Patient A to put a coat on.*
- 8) *On or around 24 February 2022;*
 - a) *Did not understand the practicalities of a pregnancy test.*
 - b) *Did not understand how to perform a pregnancy test independently*
- 9) ...
- 10) *On or around 21/22 March 2022;*
 - a) *Whilst with Patient B during their pre-operation stage incorrectly informed Patient B that they were to be placed under general anaesthetic.*
 - b) ...
 - c) *Did not recognise warning signs/indicators that Patient B was at a risk of fainting.*
 - d) *Were unable to understand what an intramuscular injection was/how it administered.*
 - e) ...

- 11) *On an unknown date, incorrectly informed an unknown patient with a systolic blood pressure of 147, that they were hypertensive/needed to see the GP following discharge.*
- 12) *Did not understand/know the effect of anti-coagulant medication.*
- 13) *Between 25 February 2022 & 30 March 2022 you were unable to comply with one or more Performance Improvement Plans put in place by your employers, in that you were unable to demonstrate proficiency in areas of;*
- a) Information retention.*
 - b) Effective communication.*
 - c) The ability to record/respond to;*
 - i. A deteriorating patient.*
 - ii. ...*
 - d) ...*
 - e) Administration of medication/controlled drugs*
 - f) Knowledge of surgical procedures.*
 - g) ...*
 - h) ...*
 - i) Checking patient blood results.*

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

The original panel determined the following with regard to impairment:

'The panel finds that patients were put at risk of harm as a result of your lack of competence. No harm occurred primarily because you were supervised at all times and colleagues intervened to ensure patient safety. Your lack of competence had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel also had regard to the NMC updated guidance on impairment DMA-1, last updated 27 March 2023.

Regarding insight, the panel considered that you have shown limited insight regarding understanding how your actions put patients at a risk of harm and how this impacted negatively on your colleagues and the public's confidence in, and on the reputation of the nursing profession.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account the limited training you have undertaken and your admission that you have not undertaken any relevant training for practising as a nurse. The panel determined that the concerns raised are remediable, but you have not demonstrated full remediation as you are currently not practising as a nurse but working as a health support worker.

The panel is of the view that there is a risk of repetition based on your lack of sufficient insight, the numerous, wide-ranging concerns that occurred over a period of time and that have not yet been addressed and suggest that the risk has not been reduced. 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; to protect, promote and maintain the health, safety, and well-being of the

public and patients, and to uphold and protect the wider public interest. This 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. The public expect nurses to be competent in their practice, and up to date with their training requirements. This also includes competency in administering medication, record keeping, communication, both verbal and written, as lack of competence in any of these areas, could deter members of the public from seeking care and treatment. Members of the public and their families, must be able to trust nurses while receiving care at all times.

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

The original panel determined the following with regard to sanction:

'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 actions were 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 placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- No evidence of harmful deep-seated personality or attitudinal problems;*
- Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- Potential and willingness to respond positively to retraining;*
- Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- The conditions will protect patients during the period they are in force; and*
- Conditions can be created that can be monitored and assessed.*

The panel was satisfied that your case fell within all of the above categories.

The panel therefore determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel noted that your current employer has indicated they would be willing to support you in order for you to continue your nursing career. The panel accepted that you would be willing to comply with conditions of practice.

The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to safe practice as a registered nurse.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order. The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of your case.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

- 1. You must limit your nursing practice to one substantive employer, which must not be an agency.*
- 2. You must not be the nurse in charge.*
- 3. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, another registered nurse.*
- 4. You must not carry out medications administration and management unless directly supervised by another registered nurse until you have successfully completed a recognised medication competency assessment and are signed off as competent by your line manager/supervisor.*
- 5. You must work with your line manager/supervisor to create a personal development plan (PDP). Your PDP must address the concerns about:*

- *Admission and discharge of patients;*
 - *Clinical knowledge relevant to your work place;*
 - *Medicines management and administration;*
 - *Effective communication;*
 - *Identification and escalation of deteriorating patients.*
- and send your case officer a copy of your PDP by no later than 21 days after you start work as a nurse.*

6. *You must meet with your line manager/supervisor at least every two weeks to discuss your progress towards achieving the aims set out in your PDP.*
7. *You must send your case officer a report from your line manager/supervisor every three months. This report must show your progress towards achieving the aims set out in your PDP.*
8. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
9. *You must keep the NMC informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
10. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*

- b) Any employers you apply to for work (at the time of application).*
- c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*

11. You must tell your case officer, within seven days of your becoming aware of:

- a) Any clinical incident you are involved in.*
- b) Any investigation started against you.*
- c) Any disciplinary proceedings taken against you.*

12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:

- a) Any current or future employer.*
- b) Any educational establishment.*
- c) Any other person(s) involved in your retraining and/or supervision required by these conditions'*

The period of this order is for 12 months.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Sheldon's 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 has had regard to all the documentation before it, including the NMC bundle, proof of posting bundle and the on-table bundle. It has taken account of the submissions made by Ms Ewulo on behalf of the NMC. Ms Ewulo provided the panel with the background facts of the case and directed it to the relevant pages in the NMC bundles. She also directed the panel to the decision of the original substantive panel.

Ms Ewulo submitted that Mrs Sheldon by her own admission, has not been working as a nurse and she has not provided any evidence of strengthening of her practice. She submitted that Mrs Sheldon had initially hoped that she would be able to transition to a nursing role within the Barrowhill Nursing Home but this had not happened. She submitted that Mrs Sheldon has now decided to move into a career in health and social care training.

Ms Ewulo informed the panel that Mrs Sheldon in an email to the NMC dated 2 February 2024, indicated that she no longer wishes to pursue a nursing career and that she has asked to be removed from the NMC register. She further informed the panel that Mrs Sheldon had stated on 4 February 2024 that she was no longer employed at Barrowhill Nursing Home and that she is now self-employed working in the field of health and social care training.

Ms Ewulo submitted that Mrs Sheldon was informed by email on 27 February 2024 on how she can make representations to allow her registration to lapse as her fee expires on 30 September 2024. She submitted that Mrs Sheldon was also told to make representations closer to the expiry of her fee for a future panel to consider reviewing her case at a substantive order review hearing.

Ms Ewulo submitted that Mrs Sheldon indicated that she had to make the difficult decision to no longer pursue a career in nursing and that when she was employed at Barrowhill Nursing Home as a Team Leader, there were assurances made that she would be supported. She submitted that Mrs Sheldon further confirmed that these assurances were unfulfilled, and this precipitated her decision to leave. She submitted that Mrs Sheldon had not provided this panel with any evidence of the

items which it was suggested by the previous panel may assist a future reviewing panel.

Ms Ewulo submitted that Mrs Sheldon has engaged with the NMC to some extent, but she has not provided a reflective piece, nor has she attended the hearing today. She submitted that as Mrs Sheldon is not working as a registered nurse the current conditions are yet to come into effect. She said that Mrs Sheldon has not been able to comply with the current conditions nor demonstrate her remediation. Therefore, Ms Ewulo submitted that Mrs Sheldon's fitness to practise remains impaired on the grounds of public protection as she has not had an adequate opportunity to strengthen her practise and accordingly the risk of harm has not been reduced.

Ms Ewulo submitted that a finding of impairment also remains necessary in the wider public interest in order to uphold standards and conduct in the profession. She submitted that the concerns are serious, some wide-ranging and relate to lack of competence regarding basic fundamental nursing care.

Ms Ewulo submitted that it has previously been determined that a caution order or taking no further action would not provide adequate protection for the public, nor be in the public interest and there is nothing to contradict those findings. She submitted that the panel may conclude that an order preventing Mrs Sheldon from unrestricted practise remains necessary. She submitted that there is a clear risk of harm to the public. She submitted that it is a matter for the panel on which order to impose.

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 Mrs Sheldon's fitness to practise remains impaired.

At this hearing the panel considered that there has been no information since the previous substantive hearing to indicate that Mrs Sheldon's insight has developed further. The panel noted that Mrs Sheldon has indicated she has no intention to return to nursing practice.

In its consideration of whether Mrs Sheldon has taken steps to strengthen her practice, the panel took into account that it has not seen any information to suggest Mrs Sheldon has strengthened her practice, is working in any nursing setting, or undertaken further relevant training. The panel has also not seen any employer testimonials, evidence of any further reflective work completed by Mrs Sheldon...[PRIVATE].

The original panel determined that Mrs Sheldon would be highly likely to repeat matters of the kind found proved. Today's panel has heard no new information to suggest that the level of risk has changed since the original hearing. In light of this, this panel determined that Mrs Sheldon is liable to repeat matters of the kind found proved. 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 Mrs Sheldon's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Sheldon's 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 and the public protection issues identified. 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 Mrs Sheldon'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 Mrs Sheldon'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 Mrs Sheldon's 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 Mrs Sheldon has been unable to comply with conditions of practice due to her current employment status but is engaging with the NMC to some extent.

The panel was of the view that a further conditions of practice order is sufficient to protect patients and the wider public interest. The panel determined that the current conditions in the conditions of practice order appropriately and adequately addresses the failings in this case.

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 Mrs Sheldon's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 6 months, which will come into effect on the expiry of the current order, namely at the end of 23 August 2024. It decided to impose 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 limit your nursing practice to one substantive employer, which must not be an agency.
2. You must not be the nurse in charge.
3. You must ensure that you are supervised by another registered nurse any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, another registered nurse.
4. You must not carry out medications administration and management unless directly supervised by another registered

nurse until you have successfully completed a recognised medication competency assessment and are signed off as competent by your line manager/supervisor.

5. You must work with your line manager/supervisor to create a personal development plan (PDP). Your PDP must address the concerns about:
 - Admission and discharge of patients;
 - Clinical knowledge relevant to your work place;
 - Medicines management and administration;
 - Effective communication;
 - Identification and escalation of deteriorating patients.and send your case officer a copy of your PDP by no later than 21 days after you start work as a nurse.
6. You must meet with your line manager/supervisor at least every two weeks to discuss your progress towards achieving the aims set out in your PDP.
7. You must send your case officer a report from your line manager/supervisor every three months. This report must show your progress towards achieving the aims set out in your PDP.
8. You must keep the NMC informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.

- b) Giving your case officer your employer's contact details.
9. You must keep the NMC informed about anywhere you are studying by:
- a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.
10. You must immediately give a copy of these conditions to:
- a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).
 - c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
11. You must tell your case officer, within seven days of your becoming aware of:
- a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.
12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
- a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions.

The period of this order is for 6 months to give Mrs Sheldon an opportunity to decide whether she wishes to leave the NMC register and if she decides to not renew her registration in September 2024 this will allow a future panel to let the conditions of

practice order to lapse which would automatically remove Mrs Sheldon from the NMC register. The panel accepts that Mrs Sheldon may decide to change her mind and return to nursing and if she does this will allow her time to do so and strengthen her practice accordingly.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 23 August 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 Mrs Sheldon has complied with the order. At the review hearing the panel may allow the order to lapse, to 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:

- Mrs Sheldon's attendance at any future hearing;
- Testimonials/positive references from Mrs Sheldon's current employer in relation to her clinical practice;
- [PRIVATE];
- A reflective statement focusing on the impact of Mrs Sheldon's conduct on patients and the nursing profession; and
- Evidence of Mrs Sheldon's continuing professional development.

This will be confirmed to Mrs Sheldon in writing.

That concludes this determination.