

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

**Substantive Order Review Hearing
Wednesday, 8 January 2025**

Virtual Hearing

Name of Registrant: Chelsie Neale

NMC PIN 14G0822E

Part(s) of the register: Community Practitioner Nurse Prescriber – V100
(10 November 2017)

Registered Nurse – Adult - RNA
(13 August 2014)

Relevant Location: Cambridgeshire

Type of case: Misconduct

Panel members: David Evans (Chair, lay member)
Diane Amy Gow (Registrant member)
Kiran Musgrave (Lay member)

Legal Assessor: John Moir

Hearings Coordinator: Sharmilla Nanan

Nursing and Midwifery Council: Represented by James Wilson, Case Presenter

Miss Neale: Not present and not represented at the hearing

Order being reviewed: Suspension order (12 months)

Fitness to practise: Impaired

Outcome: **Suspension order (6 months) to come into effect on at the end of 23 January 2025 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 Miss Neale was not in attendance and that the Notice of Hearing had been sent to Miss Neale's registered email address by secure email on 23 December 2024.

Mr Wilson, on behalf of the Nursing and Midwifery Council (NMC), submitted that Miss Neale had waived the full notice period of 28 days, to 7 days, at the previous substantive order review hearing. He submitted that service had been properly affected within a reasonable period of this hearing. He submitted that the NMC 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, and, amongst other things, information about Miss Neale'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 Miss Neale had 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 Miss Neale

The panel next considered whether it should proceed in the absence of Miss Neale. The panel had regard to Rule 21 and heard the submissions of Mr Wilson who invited the panel to continue in the absence of Miss Neale.

Mr Wilson referred the panel to the email correspondence from Miss Neale dated 8 January 2024. In her email Miss Neale stated:

“Unfortunately, I will not be able to attend the virtual hearing this morning. Sadly, I missed the email stating today's reschedule date and have opened your email which has now informed me of the date last minute.

[PRIVATE]

Whilst I would have liked to represent myself in a review hearing. [PRIVATE] I would find it difficult to give my full attention or participation to the review. I hope you can [sic] understand this.”

Mr Wilson submitted that today's hearing is a review of a substantive suspension order, which is due to expire on 23 January 2025. He submitted that today's hearing is a statutory review which has to be completed before the expiry date of the order on 23 January 2025. He noted at the last substantive order review hearing on 17 December 2024, Miss Neale applied to adjourn that hearing which was granted and that the hearing has been adjourned to today. Mr Wilson submitted that Miss Neale is not able to attend today's hearing for similar reasons as the last hearing date. He submitted that she has not made an application to adjourn today's hearing. He invited the panel to find that it is in the public interest and appropriate in all the circumstances to hear the case in Miss Neale's absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Miss Neale. In reaching this decision, the panel has considered the submissions of Mr Wilson, the email correspondence from Miss Neale, 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 Miss Neale;
- Miss Neale has informed the NMC that she is unable to attend today's hearing due to her personal circumstances;
- There is a strong public interest in the expeditious review of the case given the rapidly approaching expiry of the substantive suspension order.

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

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

At the outset of the hearing, Mr Wilson made a request that this case be held in private on the basis that proper exploration of Miss Neale's case involves reference [PRIVATE]. Mr Wilson submitted that it was a matter for today's panel as to whether the entirety of this hearing or in part should be heard in 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.

The panel determined to go into private session in connection with [PRIVATE].

Decision and reasons on review of the substantive order

The panel decided to extend the current suspension order for a period of six months. This order will come into effect at the end of 23 January 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 19 December 2023. This order was due to be reviewed on 17 December 2024 however, the hearing was postponed at Miss Neale's request.

The current order is due to expire at the end of 23 January 2025.

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

- 1) Between 3 September 2019 and 6 December 2019, whilst on sick leave and/or receiving sick pay from Cambridgeshire Community Services Trust, worked at Gurney GP Surgery on a permanent contract of 36 hours per week.*
- 2) Your actions at 1) were dishonest in that you knew you were not entitled to work for another employer whilst on sick leave and/or receiving sick pay from the Trust.*

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

The original panel determined the following with regard to impairment:

'The panel considered that limbs b, c and d of Dame Janet Smith's test set out in the Fifth Report from Shipman were engaged by your past actions. The panel noted that there were no concerns with your clinical practice and the charges found proved relate solely to your dishonesty in that you were receiving sick payments from the Trust whilst working at the Surgery. The panel finds that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel went on to consider whether you remained liable to bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel applied the test set out in the case of Cohen and assessed your levels of insight and remediation. Regarding insight, the panel considered that although this case is very serious in nature, and dishonesty is difficult to remediate, in the specific context of this case, there

was not dishonesty from the outset and [PRIVATE] your judgement and ability to handle such situations was impaired.

The panel carefully considered the level of insight demonstrated throughout your oral evidence and submissions. The panel was of the view that you have shown good insight during the course of this hearing. You stated that you regret the way this has played out and that you ‘certainly do feel remorse for the situation’ and ‘...it’s something that I never, ever want to happen again and never would happen again, in my opinion.’ You recognised that at the time your communication and organisational skills were lacking [PRIVATE].

[PRIVATE].

The panel noted that the likelihood of these exact circumstances occurring again is low.

It was of the view that given the insight you have demonstrated, particularly in relation to the circumstances surrounding the event in question, it is unlikely that this misconduct would be repeated.

The panel was satisfied that due to the specific context of this case, the misconduct is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to remediate these circumstances. It took into account your submissions in which you highlighted the steps you have identified in order to prevent this from occurring again, your genuinely expressed remorse and an understanding of how you would act differently in future, particularly in regards to communication.

The panel bore in mind 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 a finding of impairment on public interest grounds is required because, notwithstanding the circumstances as outlined by you, the fact still remains that this is a serious case in relation to dishonesty. As such, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore finds your fitness to practise impaired on the grounds of public interest.'

The original panel determined the following with regard to sanction:

'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, which states that conditions of practice may be appropriate where the following is present:

- ...
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining*
- ...
- *Conditions can be created that can be monitored and assessed*

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 misconduct identified in this case was not something that can be addressed through retraining or supervision.

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 interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 this to be a single episode of misconduct, albeit over several months. The panel found no evidence of deep-seated attitudinal problems, there has been no repetition since the incident, and the panel has determined that you have insight and do not pose a risk of repeating this behaviour.

The panel was satisfied that in this case, due to the very specific factual context, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate. In relation to the guidance, it noted the following questions for consideration:

- *Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- *Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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?*

Whilst the panel did appreciate that cases of dishonesty do raise questions about professionalism, it found that you did not display any deep-seated attitudinal issues and showed a good level of insight. The panel was of the view that, on the specific facts of this case, public confidence can be maintained without permanent removal from the register and that a suspension order would promote proper professional standards whilst upholding public confidence in the profession, as well as sending a clear message of the behaviour expected from a registered nurse. Taking account of all the information before it and of the mitigation provided, the panel concluded that it would be disproportionate to impose a striking off order.

Balancing all of these factors the panel has concluded that a suspension order for 12 months would be the appropriate and proportionate sanction to mark the seriousness of the misconduct in this case.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.'

Decision and reasons on current impairment

The panel has considered carefully whether Miss Neale'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 of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Mr Wilson on behalf of the NMC.

Mr Wilson provided a summary background of the substantive hearing and referred the panel to the relevant pages in the NMC bundle. He submitted that at the substantive hearing the panel made a finding of impairment solely on the ground of public interest. He referred the panel to Miss Neale's registrant's bundle which the original panel had sight of at the substantive hearing. He noted that there was no updated reflective statement from Miss Neale [PRIVATE] to demonstrate that she is no longer impaired for today's panel to consider.

The panel also had regard to Miss Neale's email dated 8 January 2025, as detailed above.

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 Miss Neale's fitness to practise remains impaired.

Today's panel noted that the original panel found that Miss Neale had good insight. However, today's panel did not have the benefit of Miss Neale's attendance at the hearing. Today's panel did not have any new material information including an update in relation to [PRIVATE] a reflective statement in relation to her misconduct and the impact it had on the public confidence on the wider nursing profession (as suggested by the original panel to be provided). The panel took into consideration that it had no new information to suggest that Miss Neale was no longer impaired.

The panel was of the view that an informed member of the public would be concerned to learn that a registrant whose [PRIVATE] nursing practise, which resulted in a regulatory finding of misconduct and dishonesty, was allowed to practise without restrictions. The panel concluded that further information [PRIVATE] and her reflections of how her actions have impacted her nursing practice and confidence in the wider nursing profession is required to consider whether she is no longer currently impaired.

The panel therefore determined that, in this case, a finding of continuing impairment on public interest grounds is required.

For these reasons, the panel finds that Miss Neale's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Neale'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. 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, it would be necessary to further consider whether Miss Neale remains currently impaired before considering a caution order. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Miss Neale's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered that a conditions of practice order would not be workable and would serve no useful purpose.

Further, the panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately satisfy the public interest. The panel determined that it was unable to formulate conditions of practice that would adequately address the concerns relating to Miss Neale's dishonesty.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Neale further time to fully reflect on her previous

misconduct and dishonesty. It considered that Miss Neale needs to gain a full understanding of how the dishonesty of one nurse can impact upon the nursing profession as a whole and not just the organisation that the individual nurse is working for. The panel concluded that a further six months suspension order would be the appropriate and proportionate response and would afford Miss Neale adequate time to further develop her insight [PRIVATE]. It would also give Miss Neale an opportunity, where possible, to approach past and current health professionals to attest to her honesty and integrity in the workplace since the substantive hearing.

The panel did go on to consider a striking-off order, however, determined that it was unduly punitive to impose in the circumstances.

The panel determined therefore that a suspension order is the appropriate sanction which would continue to satisfy the wider public interest. Accordingly, the panel determined to impose a suspension order for the period of six months would provide Miss Neale with an opportunity to engage with the NMC to provide a reflective statement [PRIVATE]. It considered this to be the most appropriate and proportionate sanction available.

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 23 January 2025 in accordance with Article 30(1).

Before the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement with the NMC process and attendance at the next NMC hearing
- [PRIVATE]
- A reflective piece to address professionalism and the impact your actions have had on the nursing profession and public confidence in the profession. It must be a personalised and meaningful application to Miss Neale's practice as a nurse.

- Sight of 'registrant's response bundle' from the substantive hearing
- Sight of the substantive hearing final determination

This will be confirmed to Miss Neale in writing.

That concludes this determination.