

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

**Substantive Order Review Meeting
Friday, 10 January 2025**

Virtual Meeting

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: Susan Thomas (Chair, Lay member)
Alison Bielby (Registrant member)
Nicola Strother Smith (Lay member)

Legal Assessor: Juliet Gibbon

Hearings Coordinator: Amira Ahmed

Order being reviewed: Conditions of practice order (6 months)

Fitness to practise: Impaired

Outcome: **Order to lapse upon expiry in accordance with Article 30 (1), namely at the end of 23 February 2025**

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that the Notice of Meeting had been sent to Ms Sheldon's registered email address by secure email on 28 November 2024.

The panel noted that the Notice of Meeting was also sent to Ms Sheldon's representative at the Royal College of Nursing (RCN) on 28 November 2024.

The panel took into account that the Notice of Meeting provided details of the order being reviewed and that the review meeting would be held no sooner than 6 January 2025. Ms Sheldon was invited to provide any written evidence seven days before this date.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Sheldon 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).

Decision and reasons on review of the current order

The panel decided to allow the order to lapse upon expiry of the current order at the end of 23 February 2025 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second 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 order was reviewed on 17 July 2024 and a further conditions of practice order was imposed for a period of six months.

The current order is due to expire at the end of 23 February 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, 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.*

- 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 first reviewing panel determined the following with regard to impairment:

'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.'

The first reviewing 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 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.*

Decision and reasons on current impairment

The panel has considered carefully whether Ms Sheldon's fitness to practise remains impaired. There is no statutory definition of fitness to practise. The panel however took account of the NMC guidance on impairment (DMA-1, 27 February 2024), which suggests the question the panel should ask itself is:

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

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.

The panel 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 Ms Sheldon's fitness to practise remains impaired.

The panel noted that Ms Sheldon has not provided any evidence of strengthening her practice and has not engaged with any of the recommendations made by the previous panel. The panel also noted that Ms Sheldon has not engaged with the NMC since prior to the last review hearing.

The previous reviewing panel determined that Ms Sheldon was liable to repeat the matters found proved by the original panel. Today's panel had no information before it to suggest a material change in the circumstances. In light of this, it determined, in the absence of any evidence of strengthening of practice, there remains a risk of repetition of the matters 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 Ms Sheldon's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms 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.

This panel had regard to its finding on impairment in coming to this decision. It bore in mind that its primary purpose is to protect the public and maintain public confidence in the nursing profession and the NMC as its regulator.

The panel also had regard to the NMC guidance on '*Removal from the register when there is a substantive order in place*' (REV-3h), which was updated on 30 August 2024. It had particular regard to the following parts in section '*2. Lapse with impairment*':

"A panel will allow a professional to lapse with impairment where:

- *the professional would no longer be on the register but for the order in place ;*
- *the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- *a striking off order isn't appropriate.*

Circumstances where lapse with impairment is likely to be appropriate include where

- *...*
- *there has been insufficient progress*
 - *...*
 - *in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g., ... or other personal circumstances)."*

The panel was satisfied that in the specific circumstances of this case, this section of the guidance was applicable. The panel noted that Ms Sheldon has previously explained that she has no intention of returning to a career in nursing. It is also noted that Ms Sheldon did not renew her registration in September 2024. The panel noted that if Ms Sheldon were to apply for readmission to the NMC register she would have to satisfy the registrar that she was a fit and proper person to be on the register. The registrar would be aware of the panel's findings of continued impairment of her fitness to practise in relation to the concerns identified in this case.

The panel then had regard to the '*Panel considerations*' section of the guidance and determined that the following considerations were relevant/engaged:

“ ...

- *It is not in the public interest or a professional's interests to remain on the register indefinitely when they are not fit to practise;*
- *there are advantages to all parties in setting time limits to conditions; those time limits are set for a reason and should be respected;*
- *professionals who leave the register can apply for readmission if they feel they are no longer impaired – for example, their health or language skills have demonstrably improved. A professional who has been struck off can only apply for restoration after five years.*
- *in any application for readmission the decision maker will be aware of the concerns that led to the original substantive finding of impairment, and that the professional left the register while impaired.”*

The panel noted that a striking off order is not currently available as a sanction as this is a lack of competence case and a substantive order has not been in place for a continuous period of two years. The panel took the view that to impose a sanction which would need to be reviewed by a future panel would serve no useful purpose in the circumstances of the case and would not be in the interests of Ms Sheldon or the NMC.

Having considered all the factors above, the panel was satisfied that allowing the order to lapse upon expiry, with a finding of current impairment, was the appropriate and proportionate way forward in the specific circumstances of this case.

The current conditions of practice order will be allowed to lapse at the end of the current period of imposition, namely the end of 23 February 2025 in accordance with Article 30(1). The effect of that is that Ms Sheldon's registration will expire automatically as it is only being maintained by the order currently in place.

This decision will be confirmed to Ms Sheldon in writing.

That concludes this determination.