

**Nursing and Midwifery Council**  
**Fitness to Practise Committee**  
**Substantive Hearing**  
14 May 2018

**Name of registrant:** Miss Amie Heller

**NMC PIN:** 13F1190E

**Part(s) of the register:** Registered Adult Nurse – Sub part 1  
3 September 2013

**Area of Registered Address:** England

**Type of Case:** Conviction

**Panel Members:** Cindy Barnett (Chair, Lay member)  
Mark Gibson (Registrant member)  
Catherine Askey (Registrant member)

**Legal Assessor:** Jeffrey Widdup

**Panel Secretary:** Luke Stockmans

**Registrant:** Present and not represented

**Nursing and Midwifery Council:** Represented by Rebecca Richardson, Case  
Presenter

**Facts proved** All by admission

**Fitness to Practice** Impaired

**Sanction:** A striking off order.

**Interim Order:** An interim suspension order for 18 months.

**Details of charge:**

*That you, a registered nurse,*

*1. At the Crown Court sitting at Preston on 8 December 2016, were convicted of*

*1.1. Theft (by employee), contrary to section 1 of the Theft Act 1968.*

*1.2. Two counts of being concerned in supplying controlled drug – Class B – other, contrary to section 4(3)(b) of the Misuse of Drugs Act 1971.*

*1.3. Being concerned in supplying controlled drug – Class C – other, contrary to section 4(3)(b) of the Misuse of Drugs Act 1971.*

*1.4. Supplying controlled drug – Class A – Cocaine, contrary to section 4(3) (a) of the Misuse of Drugs Act 1971.*

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

Miss Heller,

## **Background**

The NMC received a referral in August 2015 from Royal Blackburn Hospital (“the Hospital”) in relation to allegations against you involving theft of a controlled drug from the Hospital, possession with intent to supply Class A drugs (Cocaine) and the supply of controlled drugs of Class B and C which were stolen from the hospital. You made admissions in the police interview to possessing cocaine for your own personal use.

You pleaded guilty to all the charges on 8 December 2016 and were sentenced at the Crown Court on 13 January 2017. Your sentence was 3 years and 8 months imprisonment.

## **Decision on the findings on facts and reasons**

Having been provided with a copy of the Certificate of Conviction dated 17 January 2017 which confirmed that you had been convicted of the offences as outlined in the charges, the panel found the facts of charge 1 proved in accordance with Rule 31 (2) which states:

- (2) Where a registrant has been convicted of a criminal offence—
  - (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and
  - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.
  
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.

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

The panel noted that you had been tried and convicted upon indictment of Theft (by employee). Two counts of being concerned in supplying controlled drug – Class B. Being concerned in supplying controlled drug – Class C. Supplying controlled drug – Class A – Cocaine.

The panel therefore found charge 1 proved by way of your conviction.

## **Decision on impairment**

The panel next went on to decide, as a result of your conviction, whether your fitness to practise is currently impaired.

You told the panel that you admitted that your fitness to practice had been impaired by your actions.

The panel heard submissions from Ms Richardson on behalf of the NMC. She reminded the panel of the seriousness of your convictions and that your past behaviour fell far below the standards expected of a registered nurse. She highlighted the documentation you had provided today which included a reflective piece, testimonials and a GP report.

The panel heard evidence from you. You relied on the contents of the statements you had made for this hearing.

You told the panel that approximately 3 years had passed since your actions and that, although what you had been through was heart-breaking, you had been able to fully reflect on what had gone wrong.

[PRIVATE]

You told the panel that you understood that you had made a 'horrible mistake' but that that this did not make you a bad person and that you would like to have a second chance to rectify your failings. You said although initially you had found things difficult to deal with, you now had a strong support network around you, including your family [PRIVATE]. You have completed a number of courses during your sentence and seem engaged in your rehabilitation. Further, you said that you had always considered yourself to be a good nurse, that you had tried hard and that you loved your job.

You also told the panel that this had been a hard lesson for you and that in relation to putting hospital drugs in your pocket you had picked up the bad habits of others where you were working as a nurse. You highlighted that you understood the importance to the NHS of proper handling of medication and how your past behaviour had impacted on your integrity and honesty.

Further, you told the panel that you were mindful that if you were to return to practice you would need strict supervision in order to prove that you were trustworthy.

In summary, you said that you were truly sorry for your past behaviour and that you wanted to be a positive role model in the future. You said that your health was now much better and that you felt confident you would not make the same mistakes again.

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

The panel considered your actions to have breached the following provisions of *The code: Standards of conduct, performance and ethics for nurses and midwives 2008* ("the Code"):

- be open and honest, act with integrity and uphold the reputation of your profession.

You must always act lawfully, whether those laws relate to your professional practice or personal life.

*49. You must adhere to the laws of the country in which you are practising.*

*61. You must uphold the reputation of your profession at all times*

Nurses occupy a position of privilege and trust in society. 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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* 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.

The panel has had regard to guidance of Mrs Justice Cox in the case of *Grant* and concluded that your actions have brought the profession into disrepute and you have acted dishonestly.

The panel noted that the charges relate to a series of incidents that took place outside your nursing practice, and that they also relate to events that occurred within a clinical environment.

Your conviction is very serious and involved theft and dishonesty over a prolonged period of time.

Whilst the panel noted that you have made great strides in improving your health, personal circumstances and the support you receive, it considers that your insight into your past behaviour is still developing.

The panel considered that whilst you have shown clear remorse, you still have a tendency to avoid personal responsibility by blaming others for your actions and that you are still developing future strategies that may help you in the future.



It noted that due to the nature of your conviction any remediation, at this time, would be limited. You have not practiced as a nurse for some time.

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 and 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 considered that, in this case, a finding of impairment on public interest grounds was required.

The panel determined that public confidence in the nursing profession would be irreparably damaged if a nurse who had been convicted of theft of drugs from her employer and the supply of drugs including class A drugs, was not found currently impaired.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

### **Determination on sanction:**

The panel has considered this case carefully and has decided to make a striking off order.

The effect of this order is that the NMC register will show that your name has been struck from the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case. The panel heard submissions from Ms Richardson on behalf of the NMC, it also heard submissions from you.

You told the panel that you hadn't meant to come across as blaming others. You stated that you took total responsibility for your past failings.

The panel heard and accepted the advice of the legal assessor. 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 Sanctions Guidance ("SG") published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel considered the following aggravating factors:

- Your conviction was serious and involved theft of drugs from your employer and the supply of drugs including class A drugs.
- Your abuse of trust.
- Your repeated dishonesty.

The panel considered the mitigating factors in this case were:

- Your previous good character
- You have expressed your commitment in moving forward and [PRIVATE]

The panel had specific regard to the case of CHRE v GDC & Fleischmann [2005] EWHC 87 (Admin), in which it was said that:

*“As a general principle (except in cases involving relatively trivial matters such as time allowed for payment of a fine, or disqualification from driving), where a nurse or a midwife has been convicted of a serious criminal offence or offences, they should not be permitted to resume their practice until they have satisfactorily completed their sentence. Only circumstances which plainly justify a different course should permit otherwise. The reasoning behind this principle is not to punish the nurse or midwife whilst they are serving their sentence, but that good standing within the nursing or midwifery professions needs to be ‘earned’ if the reputation of the profession is to be maintained.”*

In light of the above and in view of the seriousness of this case, the panel was of the view that no further action, a caution order and a conditions of practice order were all inappropriate in the circumstances.

The panel has considered the proportionality of suspension of your registration. You pleaded guilty to serious offences which included the theft of medication from your employer.

The panel has taken into account the positive reference provided by your partner’s mother. It has also had regard to all other information about you and your developing insight. It accepts that at the time of these offences you were faced with very considerable personal and other difficulties. However, even making allowances for all

these matters the panel has concluded that a suspension order would be an inadequate response to the public interest.

Further, in considering the possibility of a suspension order, the panel was of the view that your conviction could not be regarded as 'trivial' as the criminal activity was a course of conduct which was extremely serious and persisted over a prolonged period of time, resulting in a custodial sentence for 3 years and 8 months. It followed that if the panel was to impose a suspension order, it would expire prior to the conclusion of the operational period of your sentence of imprisonment. Your sentence will not be completed for more than two years. This would also be contrary to the principle laid down in *Fleischmann*. The panel therefore determined that a suspension order would not be an appropriate sanction.

In any event, 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 as a registered nurse would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel had specific regard to the SG in relation to strike-off.

*1 "This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional, which may involve any of the following factors.*

- *A serious departure from the relevant professional standards as set out in key standards, guidance and advice.*
- *Abuse of position, abuse of trust....*
- *Dishonesty, especially where persistent or covered up.*
- *Convictions or cautions involving any of the conduct or behaviour in the above examples."*

The panel considered your actions to be fundamentally incompatible with ongoing registration. With this in mind, and taking into particular account of the decision in *Fleischmann*, the panel concluded that the only option available to it was to impose a striking-off order.

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.

The effect of this order is that the NMC register will show that your name has been struck-off the register.

## **Determination on Interim Order**

The panel accepted the advice of the legal assessor.

The panel considered the imposition of an interim order and determined that an interim order is necessary on the grounds of public protection and 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 suspension order. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

If no appeal is made, then the interim 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.