

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

**Substantive Meeting  
5 September 2018**

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

|                                    |   |
|------------------------------------|---|
| <b>Name of registrant:</b>         | Sarah Claire Jackson  |
| <b>NMC PIN:</b>                    | 95A0053S  |
| <b>Part(s) of the register:</b>    | Sub part 1<br>RNA, Registered Nurse (13 January 1998)   |
| <b>Area of Registered Address:</b> | England   |
| <b>Type of Case:</b>               | Misconduct/Caution  |
| <b>Panel Members:</b>              | Kathryn Eastwood (Chair, Registrant member)<br>Christina McKenzie (Registrant member)<br>Ian Dawes (Lay member) |
| <b>Legal Assessor:</b>             | Ben Stephenson  |
| <b>Panel Secretary:</b>            | Rob James   |
| <b>Facts proved by admission:</b>  | All   |
| <b>Facts not proved:</b>           | None  |
| <b>Fitness to practise:</b>        | Impaired  |
| <b>Sanction:</b>                   | Striking off order  |
| <b>Interim Order:</b>              | Interim suspension order (18 months)  |

## Details of charge:

That you, a registered nurse employed by the Oxford University Hospitals NHS Foundation Trust [“the Trust”]:

- 1) On or around 25 January 2017:
  - a) completed a prescription for codeine phosphate 30mgs – 60 mgs for Patient A,
  - b) Falsely signed the prescription with the prescriber’s name “S. Issa”;
  
- 2) Your actions at charge 1 above were dishonest in that you:
  - a) Knew you were not authorised to complete prescriptions,
  - b) Intended for people to believe that the prescription was valid when it was not;
  
- 3) On 25 January 2017, presented the prescription referred to at charge 1 above in a pharmacy in order to obtain medication;
  
- 4) Your actions in charge 3 were dishonest in that you intended to mislead the pharmacist to believe that it was a valid prescription when it was not.
  
- 5) On 3 February 2017, took 56 codeine tablets belonging to the Trust from ward stock without authority to do so;

- 6) Your actions at charge 5 above were dishonest in that you knew that you did not have authority to take the medication;
  
- 7) On an unknown date prior to 4 February 2017:
  - a) Took a prescription form belonging to the Trust when you did not have authority to do so,
  - b) Falsely completed the prescription form,
  - c) Used the falsely completed prescription form to obtain codeine;
  
- 8) Your actions at charge 7 were dishonest in that you:
  - a) Knew you did not have authority to take the prescription form,
  - b) Knew that you were not authorised to complete prescriptions,
  - c) Obtained medication using a prescription which you knew was not valid;
  
- 9) On an unknown date or dates prior to 4 February 2017, took codeine tablets belonging to the Trust from ward stock whilst you were working on shift;
  
- 10) Your actions at charge 9 were dishonest in that you knew that you did not have authority to take medication from ward stock;

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

That you, a registered nurse employed by the Oxford University Hospitals NHS Foundation Trust [“the Trust”]:

On 4 February 2017, accepted a caution for theft by employee, between 25-26/01/2017 at Oxford in County of Oxfordshire stole a prescription paper, of a value unknown belonging to JR Hospital, Headington, Oxford, contrary to section 1(1) and 7 of the Theft Act 1968.

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

### **Determination on service:**

The panel has considered all the information provided and has heard and accepted the advice of the legal assessor.

The panel has concluded that service of notice has been effected in accordance with the Rules. The letter giving notice was posted by the Royal Mail 'signed for' service on 13 July 2018 to the registered address of Mrs Jackson, stating that a substantive meeting would take place on or after 20 August 2018.

The panel is satisfied that, in accordance with Rules 11(A) and 34 of the NMC Fitness to Practise Rules 2004, service of notice has been duly effected and sufficient notice has been given as required by the Rules.

### **Background**

The allegations relating to this case are said to have occurred in January and February 2017 while Mrs Jackson was working as a Specialist Nurse at Oxford University Hospitals NHS Foundation Trust ("the Trust"). Mrs Jackson worked across acute Trust and primary care settings, acting as an expert nurse delivering specialist clinical services to a defined patient group, namely those undergoing breast reconstruction within the specialist surgery directorate.

It is said that on 25 January 2017, Mrs Jackson attempted to obtain prescription drugs, namely Codeine, by way of falsely signing the name of a prescribing nurse on a prescription she had stolen. When she presented the prescription at Northway Pharmacy, both Mrs Jackson and the prescription are said to have raised suspicions and it was not dispensed. The Pharmacist emailed the Trust Pharmacy Director on 26 January 2017 who passed on the information to the Trust Security Manager. The Pharmacist also reported the matter to the Police.

An investigation was undertaken to ascertain who might have presented the prescription form. The Pharmacist gave a description of the person who handed over the prescription and Ms 1 ran card tests on the entrance to the pharmacy. Her findings confirmed that only one Nurse Practitioner had entered this particular area on 25 January 2017. Mrs Jackson was identified as being that nurse after the Pharmacist was provided with a photograph and confirmed this was the case.

Following the incident, it was decided that Mrs Jackson should not be suspended as it may prejudice the Police investigation.

On 3 February 2017, Mrs Jackson had been working an unplanned shift. It is said that the Codeine Phosphate stocks were checked at around 11:00hrs and levels were correct. However when the stock was rechecked at 15:00hrs it was depleted by two full boxes (56 tablets) which were missing and unaccounted for. At this point, Mrs Jackson had left the ward and could not be searched. Ms 1 immediately called the Police to notify them of what had happened.

On 4 February 2017, Mrs Jackson was arrested and admitted to stealing the prescription on 25 January 2017 and to stealing medication from the Hospital on 3 February 2017. The Police confirmed that the Police had recovered a 28 tablet blister pack of Codeine Phosphate of which 16 tablets were remaining. [PRIVATE]

[PRIVATE]

Mrs Jackson is later said to have told the Trust that she was confused by the Police paperwork and that she had only been taking the tablets from the Hospital for three months. However, she could not confirm how many tablets she had taken from work or on how many occasions this had occurred.

Mrs Jackson accepted a caution on 4 February 2017 for theft by employee, between 25-26/01/2017 at Oxford in County of Oxfordshire stole a prescription paper, of a value

unknown belonging to JR Hospital, Headington, Oxford, contrary to section 1(1) and 7 of the Theft act 1968.

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

In reaching its decisions on the facts, the panel considered all the evidence adduced in this case. It also heard and accepted the advice of the legal assessor.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

The panel had regard to the Case Management form dated 21 July 2018 which was provided to the panel. The form was signed by Mrs Jackson and confirmed that she admitted all of the charges. The panel therefore found the charges proved by way of admission.

### **Decision on misconduct**

When determining whether the facts found proved amount to misconduct the panel had regard to the terms of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) (the Code).

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

The panel, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that Ms Jackson's actions fell significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. Specifically:

### **Prioritise People**

You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern...

### **18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations**

To achieve this, you must:

18.5 wherever possible, avoid prescribing for yourself or for anyone with whom you have a close personal relationship.

### **Promote professionalism and trust**

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other healthcare professionals and the public.

### **20 Uphold the reputation of your profession at all times**

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times...

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

20.4 keep to the laws of the country in which you are practising

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mrs Jackson's actions in obtaining Codeine Phosphate by both stealing and completing forged prescriptions were not isolated and were pre-meditated. The panel determined that both a Registered Nurse and a member of the public would consider Mrs Jackson's actions to be deplorable.

The panel therefore found that Mrs Jackson's actions fell significantly short of the conduct and standards expected of a nurse and were serious enough to amount to misconduct.

### **Decision on impairment**

The panel next went on to decide if as a result of this misconduct, and the Police caution, Ms Jackson's 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 and to maintain professional boundaries. 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.

Mrs Justice Cox went on to say in Paragraph 76:

I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.

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 fitness to practise is impaired in the sense that s/he:

- 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 was of the view that Mrs Jackson's behaviour engaged all limbs of the Grant ruling. Obtaining Codeine Phosphate unlawfully meant that the stocks at the Trust were depleted. This could have led to patients not receiving their medication and suffering harm. The panel also considered that Mrs Jackson's actions brought the nursing profession into disrepute in the way that she falsely completed prescriptions she had stolen in order to obtain Codeine. This demonstrated an abuse of her position as a Specialist Nurse. The panel was of the view that Mrs Jackson's actions also breached fundamental tenets of the nursing profession and also had regard to the dishonesty involved which concluded in Mrs Jackson receiving a caution.

Regarding insight, the panel had regard to Mrs Jackson's investigation answers which were included in the NMC bundle. Within the answers she stated:

"I am so deeply sorry and devastated about what I have done. I don't want to try and justify my actions but do feel there are significant mitigating circumstances. What you are investigating is so out of character for me. I have never been in trouble throughout my life and have a completely unblemished career up until now. I feel so awful that I have let down my patients, colleagues, the Trust, my profession and my family. I know that I have seriously jeopardised a career that I have worked exceptionally hard for and a job I whole heartedly love. I just desperately hope I can be given a second chance to work with it. My work and home life had got increasingly difficult leading up to these incidents and on reflection I can see that my actions were ones of desperation and that I had reached breaking point. I know that I should have sought help but I didn't realise I wasn't coping until it was too late."

The panel had regard to Mrs Jackson's words but was of the view that her reference to patients, colleagues and the Trust did not demonstrate that she had any understanding of how her actions had affected each of these groups. The panel did, however, take into account that Mrs Jackson has demonstrated remorse for her actions.

The panel had regard to the fact that, in her response to the NMC, Mrs Jackson indicated that she does not consider her fitness to practise to be currently impaired although it was at the time of the incidents. The panel was of the view that Mrs Jackson has not demonstrated insight into her actions. She has blamed her personal circumstances for her actions rather than taking personal accountability.

With regard to remediation, the panel noted an email from Mrs Jackson to the NMC Case Coordinator dated 6 May 2018 in which she enquired when an NMC panel would hear her case. In the email Mrs Jackson stated:

“I am no longer practising as a nurse and definitely won’t be again. I have started a new career but want this sorted as it is hanging over me. I won’t be attending the hearing as I don’t want to fight for my registration.”

Having regard to the fact to the seriousness of Mrs Jackson’s behaviour, the lack of insight and the absence of remediation, the panel determined that there is a real risk of repetition should Mrs Jackson return to nursing practice. The panel therefore concluded that Mrs Jackson’s fitness to practise is impaired on public protection grounds.

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 determined that, in this case, a finding of impairment on public interest grounds was also required. It was of the view that a member of the public would be shocked to learn that a Registered Nurse had demonstrated an abuse of trust by forging prescriptions and stealing medication from stock. The panel was of the view that the public would expect Mrs Jackson’s fitness to practise to be found impaired for these actions.

Having regard to all of the above, the panel was satisfied that Mrs Jackson's fitness to practise is currently impaired.

### **Determination on sanction:**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Jackson off the register. The effect of this order is that the NMC register will show that Mrs Jackson has 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. The panel 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, including the guidance on dishonesty. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel first of all considered the seriousness of the dishonesty in this case. In considering the seriousness, the panel referred to the SG and noted that Mrs Jackson's actions were a misuse of power that resulted in personal gain, albeit not financial. Her actions could have led to a direct risk to patients and were pre-meditated over a long period of time. The panel therefore concluded that the dishonesty demonstrated by Mrs Jackson was at the higher end.

The panel considered the following to be aggravating factors of the case:

- Mrs Jackson's actions put patients at risk of harm;
- Mrs Jackson's actions were not isolated;
- Mrs Jackson demonstrated a misuse of power and were pre-meditated;
- Mrs Jackson has shown little insight into her behaviour;

- The dishonesty involved was of several different elements including deceiving staff members and theft.

The panel considered the following to be mitigating factors of the case:

- Mrs Jackson has stated that she suffered from difficult family and personal circumstances at the time of the incidents which included health issues;
- Mrs Jackson made early admissions;
- There was no direct harm to patients;
- Mrs Jackson has demonstrated some remorse;
- There was a lack of organisational support at the Trust.

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.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 Jackson's misconduct 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 Mrs Jackson'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 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.

Furthermore the panel concluded that the placing of conditions on Mrs Jackson's registration would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG indicates that a suspension order would be appropriate where (but not limited to):

- 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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Jackson's actions is fundamentally incompatible with her remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction on the basis that it was not a single incident, that there is a risk of repetition, Mrs Jackson's lack of insight and the seriousness of the dishonesty.

Finally, in considering a striking-off order, the panel took note of the following factors to be considered in relation to consideration of striking off from the SG:

- A serious departure from the relevant professional standards as set out in key standards, guidance and advice.
- Dishonesty, especially where persistent or covered up.
- Persistent lack of insight into seriousness of actions or consequences.

The panel had regard to the fact that Mrs Jackson has stated that she no longer wishes to practise as a Registered Nurse and has started a new career. Further, it also noted the seriousness of the misconduct which amounted to varying instances of dishonesty which a fellow nurse would find deplorable. The panel was of the view that the findings in this particular case demonstrate that Mrs Jackson's actions were so serious that to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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 matters it identified, in particular the effect of Mrs Jackson's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, 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.

### **Determination on Interim Order**

The panel had regard to its duty to consider an interim order following its decision on sanction.

The panel accepted the advice of the legal assessor.

The panel considered that given the seriousness of the misconduct and its decision on sanction in this case, and its decision on sanction, that an interim order is necessary to protect the public and is otherwise in the public interest.

The panel first considered the imposition of a conditions of practice order. For the reasons as mentioned in the determination above, an interim conditions of practice order would not be appropriate in this case. Therefore, the panel decided to make an interim suspension order.

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 Mrs Jackson is sent the decision of this hearing in writing.

That concludes this determination.