

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Order Review Meeting**

**12 November 2020**

Virtual Meeting

<b>Name of registrant:</b>	Tina Sheppard
<b>NMC PIN:</b>	99I4765E
<b>Part(s) of the register:</b>	Registered Nurse (Sub Part 1) Adult Nursing – August 2002
<b>Area of Registered Address:</b>	West Sussex
<b>Type of Case:</b>	Misconduct
<b>Panel Members:</b>	Deborah Jones (Chair, Lay member) Natasha Duke (Registrant member) Jane Ledgett McLeod (Lay member)
<b>Legal Assessor:</b>	James Holdsworth
<b>Panel Secretary:</b>	Caroline Pringle
<b>Order being reviewed:</b>	Suspension order (3 months)
<b>Fitness to Practise:</b>	Impaired
<b>Outcome:</b>	Striking-off order to come into effect at the end of 22 December 2020 in accordance with Article 30(1)

### **Decision on proof of service**

The panel considered whether notice of this meeting has been served in accordance with Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (“the Rules”).

The panel accepted the advice of the legal assessor. The panel noted that under the amendments made to the Rules during the Covid-19 emergency period, a notice of hearing or meeting can be sent to a registrant’s registered address by recorded delivery and first class post or to a suitable email address on the register.

The panel noted that notice of this substantive order review meeting was sent to Miss Sheppard by email to her address on the register on 1 October 2020. The notice informed Miss Sheppard that her suspension order would be reviewed at a meeting on or after 9 November 2020, unless she asked for the review to take place at a hearing.

In these circumstances, the panel was satisfied that the notice was sent more than 28 days in advance of this meeting and had been served in accordance with the Rules. The panel was also satisfied that it was appropriate to proceed with this review at a meeting as Miss Sheppard has not requested a hearing.

### **Decision and reasons on review of the current order**

The panel decided to make a striking-off order. This order will come into effect at the end of 22 December 2020 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the fifth review of a substantive order, originally imposed as a conditions of practice order for six months by a Fitness to Practise Committee panel on 20 February 2018. This order was reviewed on 14 August 2018 and extended for a further period of 12 months. On 8 August 2019 the conditions were varied and extended for a further period of six months and on 18 February 2020 the conditions of practice order was extended for a further six months. The last review took place on 11 August 2020 and the conditions of practice order was replaced with a three month suspension order.

The current order is due to expire at the end of 22 December 2020.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charge found proved which resulted in the imposition of the substantive order was as follows:

*'That you, a registered nurse, whilst working at Ashton Grange Nursing Home:*

1. ...
2. *On one or more of the occasions listed in charge 1 above, you inappropriately disposed of the medication, whether or not you had failed to administer it, in that you placed it in a non-clinical waste bin bag.*
3. ...
4. ...

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

The last reviewing panel determined the following with regard to impairment:

*'The panel considered whether Miss Sheppard's fitness to practise remains impaired. There has been no material change in circumstance since the last review hearing; Miss Sheppard has not provided any information for this panel's consideration as to her levels of insight, attempts at remediating her practice, or whether she is working within a healthcare setting. There is no information before this panel as to whether Miss Sheppard has complied with her conditions of practice order or engaged with the recommendations of the previous reviewing*

*panel. Miss Sheppard has not substantively engaged with the regulatory process for a protracted and significant period of time, prior to the occasion of previous reviewing panel.*

*This panel considered that, were it not to make a finding of current impairment in the circumstances of the case, public confidence in the profession and the regulatory process would be significantly undermined.*

*For these reasons, the panel finds that Miss Sheppard's fitness to practise remains impaired, on grounds of public protection and public interest.'*

The last reviewing panel determined the following with regard to sanction:

*'The panel next considered whether imposing a conditions of practice order on Miss Sheppard's registration would still be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind that Miss Sheppard's misconduct is remediable. The panel noted that Miss Sheppard may have taken some steps to remediate her misconduct prior to the third substantive order review hearing but had not provided evidence of such attempts to the NMC. Since then, Miss Sheppard has not demonstrated that she has remediated her misconduct or developed insight into it.*

*The panel also bore in mind the previous history of this case. It was only after two years of being under a conditions of practice order that Miss Sheppard first began to engage with the regulatory process; however, on 14 January 2020, she indicated that she no longer wished to be a nurse and has not engaged substantively with the NMC thereafter.*

*Miss Sheppard has disengaged from the regulatory process for a significant period of time and, as such, her initial misconduct has been*

*exacerbated in seriousness – due to this protracted disengagement, contrary to a registrant’s duty to engage with their regulator as laid out in the NMC Code of Conduct. In these circumstances, the panel concluded that a conditions of practice order would no longer be workable – as it was not satisfied that Miss Sheppard would engage with any such order so as to adequately protect the public – and nor would it appropriately address the public interest in this case.*

*The panel determined that a suspension order is the appropriate sanction which would both protect the public and satisfy the wider public interest. Such an order would also afford Miss Sheppard the opportunity to re-engage with the regulatory process, and evidence the development of her insight into her misconduct and remediation of her practice.*

*The panel considered that a striking-off order would be disproportionate at this point in time. However, it acknowledged that all sanctions would be available to a future reviewing panel, who may well consider a striking-off order to be appropriate and proportionate if no progress has been made by that point in time.*

*Accordingly, the panel determined that to impose a suspension order for a period of 3 months would provide Miss Sheppard with a potentially ultimate opportunity to engage with the NMC, and demonstrate the development of her insight and remediation of her practice. Such a period of time would also afford Miss Sheppard the opportunity to clarify her intentions for the future, within or outside of nursing. The panel considered this to be the most appropriate and proportionate sanction available.*

*This suspension order will take effect upon the expiry of the current conditions of practice order, namely the end of 22 September 2020, 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:*

- *Miss Sheppard's attendance or participation at the review hearing in person, by video-link or telephone;*
- *Evidence of professional development, education and training, assessments or certificates from any healthcare setting;*
- *References or positive testimonials from paid or unpaid work; and*
- *If Miss Sheppard is intending to leave nursing, a written declaration to that effect.'*

### **Decision on current fitness to practise**

The panel considered carefully whether Miss Sheppard's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined it as a registrant's suitability to remain on the register without restriction. In considering this case, the panel carried out a comprehensive review of the order in light of the current circumstances. It noted the decision of the last panel. However, it exercised its own judgment as to current impairment.

The panel had regard to all of the documentation before it, including the decisions and reasons of previous panels. It had no information from Miss Sheppard.

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 Miss Sheppard's fitness to practise remains impaired. This panel noted that Miss Sheppard's misconduct relates to a single instance of poor

clinical practice which could be easily remediated, should Miss Sheppard wish to do so. However, Miss Sheppard disengaged with the regulatory process some time ago. She indicated in January 2020 that she no longer wished to be a nurse and there has been no further communication from her since this date.

This panel was therefore in the same position as the last reviewing panel in August 2020. It had no evidence of any remediation from Miss Sheppard, no evidence of any insight, and no information about her plans outside of nursing. The panel concluded that, in the absence of insight and remediation, there remained a risk of repetition. As such, it determined that a finding of current impairment continued to be required on public protection grounds.

This panel also agreed with the decision of the last panel that a finding of current impairment was required on public interest grounds to maintain confidence in the nursing profession and the regulatory process.

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

### **Determination on sanction**

Having found Miss Sheppard'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 Articles 29 and 30 of the Order. The panel also took into account the NMC's Sanctions Guidance and bore 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 risk of repetition identified. Taking no further action would not restrict Miss Sheppard's practice and therefore would not protect the public. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel also decided that a caution order would be inappropriate for the same reasons.

The panel then moved on to consider a conditions of practice order. The panel noted that Miss Sheppard had been subject to a conditions of practice order for several years. However, in light of her disengagement, the last reviewing panel decided that such a sanction was no longer workable or appropriate and replaced it with a suspension order. This panel had no information before it today to suggest that a conditions of practice order would be workable again. Miss Sheppard's disengagement with the regulatory process has continued. In these circumstances, the panel was of the view that a conditions of practice order would be neither appropriate nor proportionate, for the same reasons as given by the last reviewing panel in August 2020.

The panel next considered imposing a further suspension order. The panel noted that, while there was some early limited engagement from Miss Sheppard, she has now disengaged from the regulatory process for a significant period of time. Her most recent contact with the NMC was in January 2020 when she indicated that she no longer wished to be a nurse. There has been no further communication from her since. The last reviewing panel made a three month suspension order to give Miss Sheppard an opportunity to re-engage with the NMC but made it clear to Miss Sheppard that, if she did not take this opportunity, then a future panel may decide that a striking-off order was the only appropriate sanction.

Despite this warning, Miss Sheppard's disengagement has persisted. She has provided no new information for this panel and made no attempts to remediate her misconduct, which could have been easily addressed if Miss Sheppard had chosen to do so. Given Miss Sheppard's consistent and persistent lack of engagement the panel considered that a further period of suspension would serve no useful purpose in this case. It determined that Miss Sheppard's continued lack of engagement has reached a point where it is fundamentally incompatible with remaining on the register. In these circumstances, the panel determined that the only sanction which would adequately protect the public and uphold the public interest was a striking-off order.

This decision will be confirmed to Miss Sheppard in writing.

That concludes this determination.