

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

**Substantive Hearing
Monday 19 June – Wednesday 28 June 2023
31 July 2023 – 3 August 2023**

Virtual Hearing

Name of registrant: **Rebecca Snape**

NMC PIN: 14F1469E

Part(s) of the register: Sub Part 1 – RNA
Adult nurse (level 1) – 20 April 2015

Relevant Location: Lancashire

Type of case: Misconduct/Health

Panel members: Rachel Childs (Chair, registrant member)
Linda Tapson (Registrant member)
Kevin Connolly (Lay member)

Legal Assessor: Alain Gogarty

Hearings Coordinator: Rene Aktar

Nursing and Midwifery Council: Represented by Alex Radley, Case Presenter
George Hugh-Jones (31 July – 3 August 2023)

Mrs Snape: Not present and unrepresented at the hearing

Facts proved: Charges 1, 2, 4, 5a), 5b), 5c), 5d), 6a), 6c), 7a),
7b), 7c), 7d), 8, 9a), 9b), 10, 12a), 12b)

Facts not proved: Charges 3, 6b), 11a), 11b)

Fitness to practise: Impaired

Sanction: **Suspension order (12 months)**

Interim order: **Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Snape was not in attendance and that the Notice of Hearing email had been sent to Mrs Snape's registered email address on 18 May 2023. The Notice of Hearing was also sent by recorded delivery and first-class post and signed on 19 May 2023.

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Hearing was delivered to Mrs Snape's registered address on 19 May 2023. It was signed for against the printed name of 'Snape'. The panel also had regard to the 'Witness Statement of the NMC Case Officer' who sent the Notice of Hearing to Mrs Snape's email address and further by recorded delivery and first-class post.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mrs Snape's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Radley, on behalf of the Nursing and Midwifery Council (NMC), submitted that it 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.

In the light of all of the information available, the panel was satisfied that Mrs Snape has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Snape

The panel next considered whether it should proceed in the absence of Mrs Snape. It had regard to Rule 21 and heard the submissions of Mr Radley who invited the panel to continue in the absence of Mrs Snape. He submitted that Mrs Snape had voluntarily absented herself.

Mr Radley submitted that there had been no engagement at all by Mrs Snape with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mrs Snape. In reaching this decision, the panel has considered the submissions of Mr Radley, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Snape;
- Mrs Snape has not engaged with the NMC since 2020 and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Two witnesses have attended today to give live evidence and others are due to attend;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2018 and further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Snape in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she has made no response to the allegations since 2019 in relation to her referral to the NMC. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies and weaknesses in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Snape's decision to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Snape. The panel will draw no adverse inference from Mrs Snape's absence in its findings of fact.

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

At the outset of the hearing, Mr Radley made a request that this case be held either partly or wholly in private on the basis that proper exploration of Mrs Snape's case involves continued reference to her health. The application was made pursuant to Rule 19.

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.

Having heard that there will be reference to Mrs Snape's health, the panel determined to hold the entirety of the hearing in private in order to protect her privacy. It considered that, as a proper exploration of Mrs Snape's case would require frequent reference to her health conditions, it would be both impractical and inefficient to move between private and public proceedings.