

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

**Substantive Meeting
Monday 18 October 2021**

Virtual Meeting

Name of registrant: **Christine Sheila Speake**

NMC PIN: 78E2322E

Part(s) of the register: RN1-Adult Nurse Level 1 (30 March 1982)
RM-Midwife (14 June 1985)

Area of registered address: Shropshire

Type of case: Misconduct

Panel members: John Penhale (Chair, lay member)
Janine Ellul (Registrant member)
Alice Rickard (Lay member)

Legal Assessor: John Bromley-Davenport QC

Panel Secretary: Holly Girven

Facts proved by way of admission: Charges 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Miss Speake was not in attendance and that the Notice of Meeting had been sent to Miss Speake's registered email address on 14 September 2021.

The panel took into account that the Notice of Meeting provided details of the allegation, the date from which the meeting could be considered and that the case would be dealt with at a meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Speake 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).

Details of charge

That you, a Registered Nurse:

On 28 January 2019, in relation to Patient A

1. Failed to inform the patient what medication you were dispensing
2. Failed to ask the patient if she had any allergies before dispensing Buscopan
3. Failed to check the patient's medication administration chart for allergies before dispensing Buscopan
4. Failed to conduct a medical review or request a medical review of the patient, following her adverse reaction to consumption of Buscopan
5. Failed to escalate the patient's adverse reaction to being administered Buscopan
6. Failed to document the patient's adverse reaction to Buscopan in her patient notes

7. Failed to inform the nurse with care of the patient of the adverse reaction
8. Failed to complete a DATIX in relation to the patient's adverse reaction to Buscopan
9. Failed to inform colleagues taking over for the night shift that you had made a medication error in respect of the patient
10. Your actions as detailed at charges 4 to 9 above were dishonest in that you were attempting to conceal your medication error

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

Decision and reasons on facts

At the outset of the meeting, the panel noted the case management form completed and signed by Miss Speake indicating her response to the charges, in which Miss Speake made full admissions to all of the charges.

The panel therefore finds charges 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 proved in their entirety, by way of Miss Speake's admissions.

Background

The charges arose whilst Miss Speake was employed by Shrewsbury and Telford NHS Trust (the Trust) as a Sister on the Gynaecology Ward (Ward 14) at the Princess Royal Hospital (the Hospital)

On 27 January 2019 Patient A, who was 11 weeks' pregnant, was admitted to Ward 14 suffering from Hyperemesis. The following day Miss Speake was on duty on Ward 14, although she was performing management duties. Miss Speake administered Buscopan, which had been prescribed by a junior doctor, to Patient A. Patient A was allergic to Buscopan, which was recorded in her medical notes, and Miss Speake did not inform Patient A what medication she was administering, replying '*Just take it*' when Patient A

asked what it was. Patient A experienced an allergic reaction as a result of the Buscopan, including vomiting and a rash.

Miss Speake did not take action when Patient A informed her that she was allergic to Buscopan. Miss Speake failed to document the adverse reaction in Patient A's notes and did not complete a DATIX form.

During the Trust's investigation, conducted by Ms 1, Miss Speake made some admissions but did not provide an adequate explanation for her actions. Miss Speake handed her resignation into the Trust on 3 May 2019, prior to the Trust's investigation and disciplinary proceedings concluding.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Speake's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the Nursing and Midwifery Council (NMC) has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Speake's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a ‘word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.’

The NMC invited the panel to take the view that 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) in making its decision.

The NMC identified the specific, relevant standards where Miss Speake’s actions amounted to misconduct. The NMC further submitted that:

‘Charges 4, 5, 6, 7 8, and 9 involve dishonest attempts to conceal omissions of clinically necessary care. This placed Patient A at unnecessary risk of harm and raises fundamental questions about the registrant’s trustworthiness as a professional. Her acts and omissions in these charges fell far below what would be expected of a registered nurse and a finding of misconduct must follow.

In charges 1, 2 and 3 Ms Speake failed to ensure that Patient A received the fundamentals of care which in turn placed Patient A at significant risk of harm. Her omissions in this charge fell far below what would be expected of a registered nurse and a finding of misconduct must follow.’

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Miss Speake’s fitness to practise impaired. The NMC submitted that:

‘The NMC will say that the registrants fitness to practise is impaired by reason of his [sic] misconduct because she;

- i) *has in the past, and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;*
- ii) *has in the past, and/or is she liable in the future to bring the professions into disrepute;*
- iii) *has in the past, and/or is she liable in the future to breach one of the fundamental tenets of the professions;*
- iv) *has in the past, and/or is she liable in the future to act dishonestly.*

The NMC will say that all 4 limbs above are engaged.

The charges cover one incident in many years of clinical practice in which the registrant has been shown to be dishonest and placed a patient at unwarranted risk of harm. This has breached fundamental tenets of the nursing profession which in turn has brought the profession into disrepute.

Whilst it is a lone incident in a long career, it is precisely because Ms Speake has accumulated decades of experience that this incident should not have occurred. As a qualified and experienced nurse, who was up to date with her training, there is no identifiable reason why Ms Speake should have failed to follow protocols and policies. Her initial failure to follow policies and protocols had resulted in harm to Patient A.

After the initial medicine administration error, Ms Speake became more firmly entrenched in her position of ignoring her training and compounded the administration error by seeking to cover it up. This placed Patient A at further and greater risk of harm. As Ms 1 notes, "The potential consequences of this error could have been death to both the patient and her unborn baby. If a patient has an anaphylactic reaction to a drug, it can have fatal consequences."

Impairment is a forward thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the

concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

Dishonesty is a concern that is more difficult to remediate as it suggests some form of attitudinal issue. The concern therefore is not easily remediable. Ms Speake has expressed limited insight into the incident and no remorse. It was left to Patient A to report what had happened and ensure that she was examined in the light of her violent reaction to the medication. Based on these two factors it is submitted that there is a risk of repetition of the misconduct.

The clinical error and failure to record and notify her medication error placed a patient at risk of unwarranted harm, the NMC would therefore consider these failings to be of serious concern and furthermore as concerns that could harm patients if not put right. On this basis there remains a significant risk of repetition.

Because the charges raised potential risk to the public and reputational damage to the profession a finding of impairment is necessary to protect the public and to maintain public confidence in the profession by upholding proper professional standards.'

Miss Speake has accepted that her fitness to practise is impaired.

The panel accepted the advice of the legal assessor which included reference to the relevant case law.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Miss Speake's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Speake's actions amounted to a breach of the Code. Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.1 work in partnership with people to make sure you deliver care effectively

2.2 recognise and respect the contribution that people can make to their own health and wellbeing

2.3 encourage and empower people to share in decisions about their treatment and care

2.4 respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care

4 Act in the best interests of people at all times

To achieve this, you must:

4.2 make sure that you get properly informed consent and document it before carrying out any action

10 Keep clear and accurate records relevant to your practice

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this, you must:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

13.2 make a timely referral to another practitioner when any action, care or treatment is required

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

To achieve this, you must:

14.1 act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm.

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:

18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

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, treating people fairly and without discrimination, bullying or harassment

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress'

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 Miss Speake's actions, in particular the dishonesty, were serious. The panel considered each charge individually and collectively and determined that each of the charges did amount to misconduct. The panel determined that the severity of the initial medication error was exacerbated by Miss Speake's subsequent actions.

The panel found that Miss Speake's actions did fall seriously short of the conduct and standards expected of a nurse or midwife and amounted to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Speake's fitness to practise is currently impaired. The panel noted that Miss Speake has accepted that her fitness to practise is currently impaired, but exercised its own judgement.

Nurses and midwives occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses and midwives with their lives and the lives of their loved ones. To justify that trust, nurses and midwives 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 judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* 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.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'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 finds that Patient A was put at serious risk of significant harm and experienced actual harm as a result of Miss Speake's misconduct. Miss Speake's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find the charges relating to dishonesty to be extremely serious.

Regarding insight, the panel acknowledged that Miss Speake made some admissions during the Trust's investigation and has now made full admissions to the charges. However, the panel considered that Miss Speake has not demonstrated that she has reflected on the incident. The panel determined that Miss Speake has limited insight.

The panel was satisfied that the misconduct in this case is capable of remediation. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Speake has remedied her practice. The panel noted that Miss Speake resigned from the Trust and has not worked as a registered nurse since her resignation, and has indicated she no longer wishes to practise as a registered nurse. The panel therefore determined that Miss Speake has not remediated the concerns, and is highly unlikely to do so considering her intentions not to work as a registered nurse in the future.

The panel is of the view that there is a significant risk of repetition based on Miss Speake's limited insight and lack of remediation. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; 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. This 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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Speake's fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Miss Speake off the register. The effect of this order is that the NMC register will show that Miss Speake 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 and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 14 September 2021, the NMC had advised Miss Speake that it would seek the imposition of a striking-off order if the panel found Miss Speake's fitness to practise currently impaired.

In relation to sanction, the NMC submitted that:

'The consideration of public protection must be at the forefront of any decision on sanction. The public interest and the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the profession are also a valid consideration.

Any sanction imposed must do no more than is necessary to protect the public and meet the public interest and, must be balanced against the registrant's right to practice in her chosen career.

To take no further action, impose a caution order, impose a conditions of practice or a suspension order would not address the protection of patients or the significant public interest in maintaining public confidence in the profession and upholding proper professional conduct.

The only sanction which reflects the seriousness of the Ms Speake's conduct, including her dishonesty, is a striking off order.'

Decision and reasons on sanction

Having found Miss Speake's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. 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 SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- The motive for the dishonesty was to cover up a clinical error;
- The dishonesty was calculated to protect Ms Speake, even if it meant ignoring the wellbeing of a patient and her unborn baby; and
- Patient A was placed at significant risk of serious harm and experienced actual harm.

The panel also took into account the following mitigating features:

- Miss Speake made some admissions during the Trust's investigation and has made full admissions to the charges; and
- The medication administered to Patient A by Miss Speake was prescribed by a doctor, which may have led her to believe it was appropriately prescribed.

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 Miss Speake'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 Miss Speake'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 Miss Speake's registration would be a sufficient and appropriate response. 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 and Miss Speake's limited insight. The panel noted that Miss

Speake has indicated she no longer wishes to practise as a registered nurse and the panel therefore considered that conditions of practice would not be workable. In any event, the panel concluded that the placing of conditions on Miss Speake's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel considered that whilst the misconduct arose from a single medication error, Miss Speake's actions in attempting to cover up the mistake compounded the error so that it is not possible to consider her actions to be a single instance of misconduct. The panel considered that whilst there is no evidence of harmful deep-seated personality problems, Miss Speake's treatment of Patient A and her dishonesty in this instance demonstrated attitudinal issues. The panel further considered that it has determined that Miss Speake has demonstrated only limited insight and that there is a significant risk of repetition.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Miss Speake's actions, in particular Miss Speake's dishonesty to cover up an error, were significant departures from the standards expected of a registered nurse and midwife, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this case demonstrate that Miss Speake's actions were serious and 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 Miss Speake's actions in bringing the profession into disrepute by adversely affecting the public's, in particular Patient A's, view of how a registered nurse or midwife should conduct herself the panel has concluded that nothing short of this would be sufficient in this case. The panel further considered that due to Miss Speake's limited insight and the public protection issues identified, only a striking-off order would sufficiently protect the public.

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 and midwife.

This will be confirmed to Miss Speake in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Speake's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the written representations made by the NMC that:

'An interim order is in the public interest. This is because any sanction imposed by the panel will not come into immediate effect but only after the expiry of 28 days beginning with the date on which the notice of the order is sent to the registrant or after any appeal is resolved. An interim order of 18 months is necessary to cover any possible appeal period. An interim suspension order is appropriate as this would be consistent with the sanction imposed by the panel and would address public protection and public interest concerns already identified in this document.'

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise 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 order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure the public are protected should Miss Speake appeal this decision.

If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after Miss Speake is sent the decision of this hearing in writing.

That concludes this determination.