

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

**Substantive Hearing  
Wednesday 29 March 2023 – Friday 31 March 2023**

Virtual Hearing

**Name of Registrant:** **Bethan Mair Williams**

**NMC PIN** 19G0439W

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing L1 – September 2019

**Relevant Location:** Bangor

**Type of case:** Conviction

**Panel members:** Wayne Miller (Chair, lay member)  
Colin Sturgeon (Lay member)  
Lisa Punter (Registrant member)

**Legal Assessor:** Charles Apthorp

**Hearings Coordinator:** Shela Begum

**Nursing and Midwifery Council:** Represented by Toby Pleming, Case Presenter

**Mrs Williams:** Present and represented by Catherine Collins,  
(Iscoed Chambers)

**Facts proved:** Charge 1

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** **Suspension order (4 months)**

**Interim order:** **No order**

## Decision and reasons on application to amend the charge

At the outset of the hearing, the panel heard an application made by Mr Fleming, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charge 1.

The proposed amendment was to correct the place where the conviction had taken place as the proposed amendment would provide clarity and more accurately reflect the evidence.

That you, a Registered Nurse:

- 1) You were convicted on 21<sup>st</sup> May 2021 at **Gwynedd Magistrates' Court Caernarfon** ~~Crown Court~~ of causing serious injury by dangerous driving.

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

Ms Collins, on your behalf, did not oppose the application made by Mr Fleming.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

## **Details of charge (as amended)**

That you, a Registered Nurse:

- 1) You were convicted on 21<sup>st</sup> May 2021 at Gwynedd Magistrates' Court of causing serious injury by dangerous driving.

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

## **Background**

You self-referred to the NMC in relation to a motor accident caused by you on 17 November 2020.

On 17 November 2020, following a 12-hour shift at work, you were driving from Ysbyty Gwynedd, up the Felinheli bypass towards Caernarfon. The weather conditions were poor and at around 20:08 your driving caused a collision between you and a moped. You collided with the rear end of the moped and failed to take action to avoid the collision.

Between 20:06 and 20:08 you were looking at your mobile phone and engaging in emails whilst driving at approximately 50 – 60 mph.

You immediately called the emergency services, but the driver of the moped suffered spinal fractures, wounds to the head, lacerations and a broken foot.

You were subsequently prosecuted for causing serious injury by dangerous driving and sentenced to a 24-month imprisonment suspended for 24 months.

## **Decisions and reasons on facts**

The charge concerns your conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3).

## **Fitness to practise**

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

## **Impairment**

The panel heard live evidence from the following witness called on behalf of you:

- Witness 1: Gogarth Ward Manager, Ysbyty  
Gwynedd Hospital

The panel also heard evidence from you under oath.

## **Submissions on impairment**

Mr Fleming addressed the panel on the issue of impairment and reminded the panel to have regard to protecting 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. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)

Mr Fleming informed the panel that the NMC's position is that your fitness to practise is currently impaired by way of your conviction. He reminded the panel of the overarching objectives of the NMC are to protect, promote and maintain the health safety and wellbeing of the public and patients as well as to uphold and protect the wider public interest which includes promoting and maintaining public confidence in the profession.

Mr Fleming submitted that this is not a case which relates to public protection as there is no evidence before the panel to suggest there are any concerns relating to your clinical competencies. He referred the panel to the testimonials from your employer.

Mr Fleming invited the panel to find impairment on the grounds of public interest. He submitted that your actions fell far short of that expected of a registered nurse and served to undermine the public confidence in the profession. Further, he submitted that your actions breached fundamental tenets of nursing.

Mr Fleming referred the panel to the cases of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Grant*. He referred the panel to the Dame Janet Smith's "test" as set out in the case of *Grant* and submitted that limbs b and c are engaged in this case. He submitted that your actions demonstrate a serious departure from those expected of a registered nurse.

Mr Fleming referred to the code and submitted that the following parts are engaged:

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

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

***20.2 act with [...] 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***

***20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to***

Mr Fleming referred the panel to the NMC's guidance on impairment. He acknowledged that you have shown a level of genuine remorse and real insight. He further acknowledged that this was an isolated incident. However, he submitted that this is a case of dangerous driving which suggests that your driving fell far below the standards of a careful and competent driver.

Mr Fleming referred to the case of the Council for the Regulation of Health Care Professionals v General Dental Council and Alexander Fleischmann [2005] EWHC 87 (Admin) and referred specifically to paragraph 54 which states:

*"I am satisfied the Committee did not sufficiently consider the significance of the sentence which had been imposed by the Crown Court. His duty of disclosure to his patients would require that patients were informed of the sentence and the conditions attached to it. I am satisfied that, as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine. The rationale for the principle is not that it can serve to punish the practitioner whilst serving his sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained."*

Mr Fleming submitted that this is the basis on which he puts his case. He submitted that given the facts of this case, an informed member of the public would be concerned if a finding of impairment were not made. He submitted that it would undermine the public confidence in the nursing profession and its regulator.

Ms Collins submitted that finding impairment is not a mandatory finding in any particular case and that it is an independent and necessary stage which requires particular

consideration by the panel. She invited the panel to take a holistic approach when considering current impairment.

Ms Collins reminded the panel that the NMC are proposing that a finding of impairment is required on public interest grounds and that it relies on limbs b and c in Dame Janet Smith's "test" as set out in Grant. However, she submitted that these limbs are two sides of the same coin as the fundamental breach that is being relied upon is that of bringing the nursing profession into disrepute.

Ms Collins referred to the parts of the Code referred to by Mr Fleming and submitted that there has been no suggestion that you have done anything other than act with integrity. She submitted that you made a very serious error in judgement in opening an email whilst driving. In so doing, you caused an accident which resulted in the driver of the other vehicle suffering very serious injuries. Ms Collins submitted that from this moment forward, you have acted with integrity. You provided roadside care to the extent that you could, you called emergency services to arrive on scene, you immediately informed your employer and self-referred to the NMC.

Ms Collins submitted that you are being punished by the Criminal Court by virtue of your suspended sentence of 2 years, for which you have a remaining 10 and a half weeks to serve.

Ms Collins submitted that a fully informed member of the public would note the genuine remorse demonstrated by you as well as genuine insight into the serious failure. Further, she reminded the panel that you acknowledge that any compensation received by the other driver as a result of the accident does not bring back his injury free status. She told the panel that you hope that he is able to recuperate to the best of his ability.

Ms Collins reminded the panel that you have demonstrated during your evidence that you have learnt from this experience and have gained the most salutary lesson as to what those consequences could be.

Ms Collins submitted that you are a competent and kind nurse who is very well regarded by your employer. She referred the panel to the testimonial from the Head of Nursing.

Ms Collins referred the panel to the relevant guidance.

Ms Collins referred to the case of Fleischmann and specifically to paragraph 53 which states:

*“Because of the conditions attached to the order, in particular the requirement to participate in a sex offenders’ treatment programme, the decision to suspend is the more surprising. The committee could not know what the outcome of the sex offenders’ treatment programme would be, even at the end of three years, let alone what the record would show after twelve months. There was a body of material which strongly suggested that, unless he accepted responsibility for his offending, the treatment programme was unlikely to be successful. In its reasons the Committee had stated that it “remained concerned” that he should accept and face up to his responsibility and culpability in the matter. In light of this conclusion it seems the Committee must have assumed that he would face up to his responsibility, that the programme would be a success within twelve months and that a continuing need to attend until the expiry of the three year term would give rise to no concern on the part of the public, including his patients. Beyond that, the Committee must have assumed that the obligatory requirement which Parliament considered necessary for the protection of the public, that he should remain on the Sex Offenders’ Register for five years, would give rise to no concern to the public, including his patients. Yet beyond that, it is to be assumed that the Committee must have concluded that the public, including his patients, would have no concern that the resumption of practice involved a special requirement that he should not be allowed unsupervised access to children under sixteen years.”*

Ms Collins referred to this case. She told the panel that you have, from the outset, accepted responsibility for your actions. She submitted that there can be no thinking skills

or probationary requirements offered to you. She referred to the sentencing remarks dated 11 June 2021 in which it states:

*“In your case there is no doubt that there is a realistic prospect of rehabilitation because the prison, the probation service, have spelled out quite clearly, that you do not need any intervention to assist with rehabilitation and that this is an isolated incident.*

*[...]*

*Frankly, in my judgment, the very fact that you have had to appear before the court, and the very fact that you will have to live with the knowledge of what you have caused, and the suffering you have caused to [...] is sufficient punishment and you do not require any punishment over and above that.”*

In closing, Ms Collins invited the panel to consider your genuine insight and deep and sincere remorse, the fact that this was an isolated incident which has not been repeated and that there are no clinical concerns around your nursing practice. She invited that panel to take all these factors into consideration when determining whether your fitness to practise is currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *General Medical Council v Meadow* [2007] QB 462 (Admin) and *Grant*.

## Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, your 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. 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 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/their fitness to practise is impaired in the sense that S/He/They:*

- 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) *[...].'*

The panel considered the “test” as set out above. In respect of limb a, the panel acknowledged that the concerns in this case do not relate to your clinical competencies. It noted that there is no suggestion in this case that your practice as a nurse has placed patients in your care at a risk of harm. However, it noted the seriousness of the accident caused by you whilst driving dangerously and that it resulted in the driver of the other vehicle involved in the accident sustaining serious injuries.

The panel noted that you were driving at a speed between 50 – 60 mph, it was a winter evening, it was dark, and the weather was bad. You received an email alert and lifted your phone, you then read emails, entered passwords, entered verification codes, switched applications and signed a document electronically. This caused you to take your attention away from the road for around 2 minutes. It concluded that this behaviour was more than a momentary lapse of attention and resulted in dangerous driving that caused serious harm to another driver.

The panel noted that nurses are placed in a position of trust and that members of the public would expect to be able to trust nurses with their lives and lives of their loved ones. It therefore is of the view your actions have breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that you have taken responsibility for your actions and shown genuine insight. It noted that you have demonstrated how to avoid repeating the incident and what you would do differently. Further, the panel is satisfied that you have demonstrated that you understand the severe impact of your actions on the life of the other driver involved in the accident. The panel could also be satisfied that you have demonstrated an understanding of why your actions were wrong and how this impacted negatively on the reputation of the nursing profession.

The panel is of the view that, given your conduct, insight, remorse and the fact that this was an isolated incident, there is a realistic prospect that there will not be a repetition in this case. The panel therefore could not be satisfied 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 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.

In addition, the panel took into account current guidance which included consideration of the public interest will require the Fitness to Practise Committee to decide whether a finding of impairment is needed to:

- uphold proper professional standards and conduct
- maintain public confidence in the profession

The panel considered the extent of harm and serious injury that was caused to the driver. The panel noted the seriousness of the offence meant that the subsequent sentence had to be decided upon at the Crown Court. The length of the custodial sentence passed also reflected the gravity of the offence; the public would be dismayed by your conduct. The panel is of the view that a fully informed member of the public would be seriously



## Submissions on sanction

The panel had regard to the Notice of Hearing, dated 22 February 2023, the NMC had advised you that it would seek the imposition of an eight-month suspension order if it found your fitness to practise currently impaired.

Mr Fleming informed the panel that an eight-month suspension order is the appropriate and proportionate sanction in this case.

Mr Fleming submitted that the actual harm caused to the other driver and the serious and devastating effects it had on him is an aggravating feature in this case.

Mr Fleming also acknowledged the genuine insight and remorse that you have shown.

Mr Fleming referred to the case of *Fleischmann* and to the SG which sets out:

*“the personal circumstances or mitigation of the nurse, midwife or nursing associate is also less likely to be useful or helpful to the Fitness to Practise Committee when making a sanction decision than it would have been to the criminal court.*

*[...]*

*In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed a sentence for a serious offence.<sup>3</sup> This is a general rule that it would be right for the Fitness to Practise Committee to consider, but it does not mean that the Committee has no choice but to remove the nurse, midwife or nursing associate from the register permanently.”*

Mr Fleming clarified that although the incident was unintended, it was something that was caused by you as a result of engaging with your phone whilst driving at 50 – 60 mph.

Mr Fleming submitted that it would not be appropriate to take no action or impose a caution order given the seriousness of this matter and that you were convicted and currently serving a custodial sentence, suspended, as a result. He submitted that a conditions of practice order would not be appropriate in this case as the concerns do not relate to your clinical competencies. He further submitted that a striking-off order would be wholly disproportionate in this case.

Mr Fleming submitted that the eight-month suspension order is necessary to meet the wider public interest and to mark the seriousness of this matter. He submitted that the public confidence in the profession would be undermined if an order were not to be made.

Ms Collins reminded the panel the genuine remorse you have shown and referred to the sentencing remarks which show that the Judge states:

*“... it may be of some comfort to [the driver] and [...] I think it should be passed on to [the driver] that, how seriously she has taken this and the impact will stay with her forever.”*

Ms Collins submitted that you have never sought to explain your actions on the date of the incident but instead accepted full responsibility and accepted that it was completely wrong for you to engage with your mobile phone whilst driving.

Ms Collins acknowledged the seriousness of the offence and the seriousness of the impact on the other driver. However, she reminded the panel that the Criminal Court have already punished you for your actions and that the panel's role today is not to punish you further.

Ms Collins referred to the SG. She referred to the general guidance which suggests that a nurse should not be allowed to practice until they have completed serving their sentence. She reminded the panel that this is general guidance, and it is not mandatory to follow this

or apply this. Further, she reminded the panel that you have continued to practice as a nurse, without incident, since the accident had occurred.

Ms Collins submitted that the panel could consider a caution order in this case, as she submitted that there are exceptional circumstances in this case. She invited the panel to consider imposing a caution order as it could be reflected on her registration for a longer period of time.

Ms Collins invited the panel to consider whether it is proportionate to suspend your practice given that you have served over 90 percent of your custodial sentence which is due to be finished in June 2023. Further, she reminded the panel that there has not been any suggestion that there are any concerns relating to your clinical competencies but that the panel has heard the impact a suspension order would have on your community and colleagues. She submitted that if you were suspended, the patients in your community would not be well served by the regulator.

Ms Collins submitted that if the panel are not minded to impose a caution order, then it should consider imposing a suspension order for a period of two months. She submitted that this would mark the importance and cover the period of your remaining sentence duration.

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

### **Decision and reasons on sanction**

Having found your 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 conduct posed a serious risk of harm to other road users.

The panel also took into account the following mitigating features:

- Genuine insight and remorse
- Conduct immediately after the incident included; rendering first aid, calling emergency services, assisting with the investigation, immediately informing the employer and pleading guilty at the Criminal Court;
- Previous good character; and
- No evidence of concerns relating to clinical practice and has continued to practise safely as a nurse.

In reaching its decision, the panel took into account that you have not had any previous NMC referrals, and this is the first time you are before the regulator.

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.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, an order that does not restrict your 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 your conduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. However, the panel noted that this is not a case which relates to your clinical nursing practice and therefore concluded that the placing of conditions on your registration would not be the appropriate sanction in this case.

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

The panel was satisfied that in this case, the conduct was not fundamentally incompatible with remaining on the register but the seriousness of the case requires temporary removal from the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the wider public interest in this case.

The panel considered that this order is 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 panel determined that a suspension order for a period of four months was appropriate in this case to mark the seriousness.

Having found that your fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found your fitness to practise impaired on the grounds of public interest.

In accordance with Article 29 (8A) of the Order the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the substantive order having found your fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will lapse upon expiry without review.

This will be confirmed to you in writing.

## **Interim order**

As the suspension 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 your own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

## **Submissions on interim order**

The panel took account of the submissions made by Mr Fleming. He submitted that an 18-month interim order is required to cover the 28-day appeal period and the period during which any appeal may be lodged and upheld. He submitted that an interim order is required in the public interest.

The panel also took into account the submissions of Ms Collins. She submitted that the nature of the finding of impairment is on public interest grounds and that no public protection issues have been identified. She told the panel that prior to today, there has not been an interim order in place at any stage since the referral and she submitted that an interim order is not required today. She submitted that if an interim order is not imposed, the 28-day appeal period would allow you to transition into a new role and prepare for your substantive suspension order. Further, she submitted that the 28-day appeal period would allow a transitional period for the ward that you work in and allow you to continue providing care for the patients until the substantive suspension order comes into effect.

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

## **Decision and reasons on interim order**

The panel was not satisfied that an interim order is necessary for the protection of the public or 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 not to impose an interim order. Given that there are no public protection concerns in this case, and that the public interest is served by the substantive suspension order which will come into effect after the 28-day appeal period, the panel concluded that an interim order is not required in this case.

That concludes this determination.