

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

**Substantive Hearing
Friday 21 June – Friday 28 June 2024**

Virtual Hearing

Name of Registrant: Emma Johnson

NMC PIN: 17J0055N

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing, Level 1 (29 September 2017)

Relevant Location: Causeway Coast and Glens

Type of case: [PRIVATE]/Misconduct/Conviction

Panel members: Christine Nwaokolo (Chair, lay member)
Richard Weydert-Jacquard (Registrant member)
Chris Thornton (Lay member)

Legal Assessor: Ruth Mann

Hearings Coordinator: Rene Aktar

Nursing and Midwifery Council: Represented by Raoul Colvile, Case Presenter

Ms Johnson: Present and unrepresented at the hearing

Facts proved by admission: Charges 1, 2 and 3

Facts proved: Charge 4

Facts not proved: N/A

Fitness to practise: Impaired

Sanction: Suspension order (12 months) with a review

Interim order: Interim suspension order (18 months)

Details of charges

That you, a registered nurse:

1) Have, or have had, [PRIVATE]

2) As a consequence of one [PRIVATE]

a) drove to your place of work whilst under the influence of alcohol

b) attended your shift whilst under the influence of alcohol

AND in light of the above, your fitness to practise is impaired [PRIVATE]

3) On 2 June 2021 at the Magistrates' Court of Northern Ireland were convicted of the offence of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath exceeded the prescribed limit, contrary to Article 16(1)(a) of the Road Traffic (Northern Ireland) Order 1995

4) In relation to charge 3, failed to notify the NMC that you had been charged with a criminal offence in a timely manner

AND in light of the above, your fitness to practise is impaired by reason of your conviction at charge 3 and misconduct at charge 4

Schedule 1

[PRIVATE]

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

At the outset of the hearing, Mr Colvile made a request that this case be held in private on the basis that proper exploration of your case involves reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You did not oppose this application.

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(2) which relates solely to an allegation concerning the registrant's [PRIVATE], must be conducted in private, 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 your [PRIVATE], the panel determined to hold the hearing in private to protect your privacy.

After your admission to charges 1 and 2 the panel were then, as detailed below, informed of charges 3 and 4 that related to conviction and misconduct. The case presenter applied for those charges to be heard private only [PRIVATE]. You did not oppose the application. The panel determined to amend its ruling to hear the case in public save for matters in relation to [PRIVATE].

Order of hearing in view of charges relating to conviction/misconduct

Prior to the hearing the panel did not have any details or information in relation to charges 3 and 4. This was to ensure fairness and ensure that had you not admitted charges 1 and 2 the panel could hear evidence relating to those charges in isolation. Charges 3 and 4 are a conviction and linked misconduct charge which, had the panel known about prior to charge 1 and 2 being proven could have caused injustice to you.

When you admitted charges 1 and 2 the panel announced that those charges were proven by admission.

The panel were then informed by the Case Presenter they would now receive information regarding charges 3 and 4.

You admitted charge 3 and denied charge 4.

Background

Your previous employers, the Priory Group, informed the NMC that on 9 February 2021 you drove to work under the influence of alcohol in readiness to commence a nightshift. Upon recognising that you were intoxicated, you were sent home by management and following the incident, you were issued with a final written warning.

The NMC received a self-referral from you on 10 June 2021. You stated that on the 23 April 2021 at 20:15 you were stopped and consequently arrested by the police for driving your motor vehicle with excess alcohol in your breath. You were bailed to attend Court, and on the 2 June 2021, you were convicted for driving a motor vehicle with excess alcohol in your system. You were sentenced to a twelve-month disqualification from driving and summoned to pay a fine.

[PRIVATE].

[PRIVATE].

Decision and reasons on facts

At the outset of the hearing, the panel heard from you, where you informed the panel that you made full admissions to charges 1 and 2. As detailed above, the panel were then informed about charges 3 and 4.

You admitted charge 3. You denied charge 4.

You explained you had been informed by the Royal College of Nursing (RCN), that you only had to disclose to the NMC a conviction rather than a charge. However, you accepted that this had been incorrect advice, and you should have notified the NMC as soon as you had been charged with the driving offence.

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 a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

Charge 4)

4) In relation to charge 3, failed to notify the NMC that you had been charged with a criminal offence in a timely manner

This charge is found proved.

In reaching its decisions on the disputed facts on charge 4, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Colvile on behalf of the NMC. The panel also heard evidence from you under oath.

The panel took into account that in your evidence, you stated that you were advised by the RCN to not declare the charge until such a time as you had been convicted. However, the panel determined that as a registered nurse, you should be aware of the Code of Conduct rules and if you were unsure about what to do, you should have reviewed the Code at the time. Under panel questioning, you accepted upon reflection that you should have sought clarity from the Code and reported the charge.

The panel determined that you did not inform the NMC that you had been charge with a criminal offence in accordance with Rule 23(2) which requires registrants to inform the NMC "as soon as you can". You were charged on 23 April 2021, and you informed the NMC of the conviction on 5 June 2021. Consequently, the panel determined that you had failed to inform the NMC in a timely manner.

The panel therefore finds this charge proved.

Fitness to practise

There is no statutory definition of fitness to practice. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted. In addition, it is recognised in FtP Guidance DMA-1 that a question which could help decide whether a professional's fitness to practise is impaired is: 'Can the nurse, midwife or nursing associate practise, kindly, safely and professionally?'

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.

[PRIVATE].

The same approach was adopted in respect of your conviction at charge 3, where the panel considered whether your fitness to practice is currently impaired by reason of your conviction.

In relation to charge 4, the panel adopted a two-stage process. Firstly, they determined whether the facts found proved amounted to misconduct, and secondly, only if the facts found proved amounted to misconduct, the panel had to decide whether, in all the circumstances your fitness to practice is found impaired by reason of your misconduct.

Submissions on misconduct in relation to charge 4

Mr Colvile invited the panel to take the view that that facts in charge 4 amounted to misconduct. The panel had regards to the terms of 'The Code: professional standards of practice and behaviour for nurses and midwives (2015) (the Code) in making its decision.

Mr Colvile identified the specific standards where your actions amounted to misconduct. Mr Colvile explained the misconduct was serious and that as a registered nurse there is a requirement for transparency. He submitted that there had been over six weeks delay in reporting the charge to the NMC. The NMC in that time could have made a decision as to whether your practice should be restricted and whether an interim order was required.

You acknowledged after panel questions that you should have referred to the NMC Code to best understand your obligations to report a charge. However, you relied on advice from the RCN.

Submissions on impairment

Mr Colvile moved on to the issue of impairment and addressed the panel on the need 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Colvile made submissions to the panel [PRIVATE]. In relation to the conviction and misconduct Mr Colvile submitted you were impaired on public interest grounds only.

[PRIVATE].

[PRIVATE].

Mr Colvile submitted that [PRIVATE], you are developing insight. [PRIVATE].

[PRIVATE].

In respect of misconduct/criminal conviction, Mr Colvile submitted that the conviction is of a serious nature as you put yourself and others at risk of harm by driving under the

influence of alcohol. Mr Colvile submitted that the public would be concerned about your immediate return to practice knowing that you have broken the law.

In respect of misconduct Mr Colvile submitted that your decision to not inform the NMC of your charge put patients at risk as it meant that the NMC could not undertake a risk assessment or seek appropriate measures to protect the public. Mr Colvile submitted that the public confidence in the profession would be undermined as you would have shown a lack of transparency and openness with the NMC which he states underpins the Code.

You gave evidence under oath.

You agreed with Mr Colvile's submissions and that you take on board the misconduct and impairment charges. [PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

You said that you were very fortunate that your actions did not injure or hurt anyone in the process. You said that your actions were not done out of malice [PRIVATE].

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. *Roylance v General Medical Council (No2)* [2000] 1 A.C. 3.11, *General Medical Council v Meadow* [2007] QB 462 (Admin), *Brocklebank v GMC* [2003] UKPC.

Decision and reasons on impairment

The panel next went on to decide whether, as a result of your [PRIVATE], and/or conviction and/or misconduct your fitness to practice is currently impaired.

The panel decided to address each of the concerns in turn, [PRIVATE].

Decision and reasons on impairment for [PRIVATE] (charges 1 and 2)

In reaching its decision, the panel bore in mind Rule 31(5) and considered all the evidence adduced in this case together with the submissions made by Mr Colvile and also your oral and documentary evidence.

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

[PRIVATE].

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

[PRIVATE]. 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 in the case of a registrant [PRIVATE], if a finding of impairment were not made.

The panel therefore determined that a finding of impairment is necessary on public interest grounds.

Decisions and reasons on impairment on conviction (charge 3)

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 be 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.*

d) ...

In respect of charge 3, the panel determined that as your conviction was acquired outside of your working practice, that patients were not put at unwarranted risk of harm. The panel considered that as this charge does not relate to a risk of harm to patients, that the first test in Grant was not met. The panel next considered whether your conviction had brought the profession into disrepute. The panel determined that in breaching Code 20.4, in not keeping to the laws of the country in which you were practicing, that your conviction had brought the profession into disrepute. Whilst the panel acknowledged that you demonstrated remorse for your conviction during your oral testimony, this testimony was not in the form of a fulsome reflection on the impact of your actions on the public and the public's wider confidence in the profession. The panel also had no further evidence from you attesting to this level of developed insight. The panel bore in mind that your alcohol misuse led to your conviction. [PRIVATE]. Consequently, the panel determined that until such a time as further insight was forthcoming, [PRIVATE], you are liable in the future to bring the profession into disrepute.

The panel subsequently considered whether you had breached fundamental tenets of the profession. The panel was of the view that nurses fundamentally must "do no harm". Consequently, it determined that in driving under the influence of alcohol, twice the legal limit, you had put members of the public at a potentially significant risk of harm. The panel was of the view that you had expressed remorse for driving under the influence of alcohol. You had also demonstrated early insight into why public confidence in your profession may be affected by your actions. However, the determined that further reflection was required to fully develop your level of insight. As such, the panel found that you remained liable in the future to breach a fundamental tenet of the profession until such a time as your insight was fully developed.

The panel next considered FTP 14a, 14b, and 14c Guidance when considering the extent of your insight and level of remediation. The panel first explored whether your misconduct by virtue of your conviction could be remediated. The panel determined that whilst a

criminal conviction for driving under the influence of alcohol was serious, that it was capable of being remediated. The panel next considered whether you had fully addressed this concern. The panel determined that whilst you demonstrated a developing level of insight over this instance of misconduct, it had no evidence before it of fulsome reflection of the impact of your actions upon the public, the profession and the public's confidence in the profession. Consequently, the panel found that you had not yet sufficiently addressed this misconduct. Finally, the panel explored whether it was unlikely that you would repeat this misconduct. The panel bore in mind that your insight was still developing, and therefore, could not be satisfied that the risk of repetition was unlikely.

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 considered that whilst driving under the influence of alcohol had put the public potentially at risk of harm, that as this was not related to your nursing practice, a finding of impairment on public protection grounds was not required on this charge. The panel considered that following the imposition of your conviction the Court imposed a financial penalty and a disqualification from driving which were measures put to protect the public.

The panel considered that in this case, a fully informed member of the public apprised of the alcohol misuse issue which led to this conviction, would be concerned if a finding of impairment on public interest grounds was not made in light of, this as yet, not fully remediated misconduct. Therefore, the panel determined that a finding of impairment on public interest grounds was required.

Decision and reasons on misconduct (charge 4)

In considering misconduct (charge 4), the panel adopted a two-stage process in its consideration. Firstly, 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 then decide whether, in all the circumstances, your fitness to practise as a registered nurse is currently impaired as a result of that misconduct.

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (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.*'

When determining whether the fact found proved in charge 4 amounted to misconduct, the panel had regard to the terms of the Code.

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

'13 Recognise and work within the limits of your competence

13.4 take account of your own personal safety as well as the safety of people in your care

16 Act without delay if you believe that there is a risk to patient safety or public protection

16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can

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

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

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public

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

23 Cooperate with all investigations and audits

23.2 tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel determined that the approximately six weeks' delay between you being charged and you reporting the matter to the NMC was a serious breach of the Code. It prevented the NMC from performing a timely risk assessment and from taking steps, if necessary, to restrict your practice. The panel considered your omission to place patients at unwarranted risk of harm. Further, it is the panel's view that upholding the standards and reputation of your profession means having an open and transparent relationship with your regulator. Not informing the NMC of the charge at the time undermined that relationship.

The panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment (charge 4 misconduct)

The panel went on to decide, as a result of the misconduct, your fitness to practice is currently impaired. The panel considered which if any limbs of the *Grant* test (as set out above) were engaged in relation to charge 4.

The panel considered that patients were in the past put at unwarranted risk of harm by your failure to disclose your criminal charge in a timely fashion to the NMC. Had you disclosed this in a timely fashion, the NMC would have been in a position to consider placing restrictions on your practice to prevent any potential risk of harm to patients. However, the panel considered through your oral evidence you had demonstrated some understanding that your actions were wrong. Further, that you had demonstrated an early level of insight into the impact not disclosing your criminal charge potentially had on the NMC's capability to assess your level of risk and impose any restrictions to your practice. However, the panel was of the view that your level of insight was still developing, and not yet fulsome. Consequently, the panel determined that you may be liable in future to not disclose any future criminal charge to the NMC and therefore may be liable in the future to act so as to put patients at an unwarranted risk of harm. Accordingly, the panel found the first limb of this test to be engaged.

The panel next considered whether your actions had brought the profession into disrepute. It determined that in failing to disclose your criminal conviction in a timely manner you had not demonstrated the level of integrity, openness and accountability required of a registered nurse, and had thus brought the profession into disrepute. The panel considered that whilst you demonstrated early, developing insight into your misconduct at this charge, that you had not fully reflected as yet upon the impact of your actions on the public, your regulator or the wider public's confidence in the profession. Consequently, the panel could not be reassured that you were not liable in the future so as to act to put the profession into disrepute. Therefore, the panel found the second limb of this test to be engaged.

Finally, the panel explored whether the misconduct within this charge had led to you breaching the fundamental tenets of the profession. The panel considered that you had

breached multiple aspects of The Code, and therefore had indeed breached fundamental tenets of the profession in the past. The panel considered your oral evidence before it in which you expressed remorse over your non-disclosure, and offered verbal reassurance to the panel that you would in future always disclose any criminal charge to the NMC in a timely fashion. However, on balance, the panel was of the view that your insight into this misconduct was only recently gained, and as such still maturing. Furthermore, the panel considered that by your own admission your alcohol misuse at the time had clouded your judgement over when to disclose to the NMC. [PRIVATE]. Consequently, the panel could not be reassured that you were not liable to act so as to breach fundamental tenets of the profession in future. Therefore, the panel found this third limb of the test to be engaged.

The panel went on to consider FTP-14a, 14b, 14c Guidance and applied it to your misconduct at charge 4.

The panel considered that your non-disclosure though serious misconduct was capable of being remedied. [PRIVATE]. Furthermore, that you had demonstrated developing insight into the impact of your actions on wider stakeholders, including the public and your regulator. However, that your insight was at an early stage, [PRIVATE]. The panel therefore determined that your misconduct at charge 4 had not been fully remediated. Furthermore, that as such it could not be reassured your misconduct was unlikely to re-occur.

The panel considered that as you were liable to bring the profession into disrepute, breach fundamental tenets of the profession and there remained a sufficiently high risk of repetition of your misconduct, that a finding of impairment on the grounds of public protection was necessary.

The panel considered that a member of the public fully informed of the facts of this case, [PRIVATE], would be very concerned if a finding of impairment on the grounds of public interest was not made.

Consequently, the panel found that your fitness to practise was impaired on both public protection and public interest grounds.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of twelve months. The effect of this order is that the NMC register will show that your registration has been suspended.

Submissions on sanction

Mr Colvile submitted that the NMC is seeking the imposition of a 12-month suspension order with a review.

Mr Colvile submitted aggravating factors include that your conduct placed patients at unwarranted risk of harm; that your insight was limited at this stage [PRIVATE].

Mr Colvile submitted mitigating factors include your developing insight [PRIVATE].

[PRIVATE].

In consideration of a conditions of practice order (COPO), Mr Colvile submitted that workable conditions that would adequately address the public protection concerns are difficult to formulate especially as there are no concerns regarding your clinical practice. [PRIVATE].

In relation to your conviction and misconduct, Mr Colvile submitted that your conduct fell significantly short of the standards expected in terms of complying with the law and

upholding the fundamental tenets of doing no harm and promoting professionalism and trust. [PRIVATE].

You agreed with Mr Colvile's submissions. [PRIVATE].

[PRIVATE].

Decision and reasons on sanction

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

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 Sanctions Guidance (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:

[PRIVATE].

- [PRIVATE].
- [PRIVATE].

The panel also took into account the following mitigating features:

- Evidence of your developing insight into the impact of your misconduct upon wider stakeholders
- [PRIVATE]
- Evidence of strong remorse

- [PRIVATE]
- [PRIVATE]

The panel first considered whether to take no action but concluded that this sanction would not serve to protect the public or meet the public interest concerns identified in this case.

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 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 misconduct 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. The panel considered the SG, in particular:

- ...
- ...
- ...
- *Potential and willingness to respond positively to retraining;*
- [PRIVATE]
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- ...

In considering a conditions of practice order, the panel was mindful that the basis of your misconduct and impairment [PRIVATE], [PRIVATE]. The panel determined that [PRIVATE] that no conditions could be formulated to sufficiently address this issue. The panel was of the view that re-training and supervision within a conditions of practice order would not [PRIVATE], both in that conditions would not be workable, [PRIVATE].

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public, nor would it meet the public interest.

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;*
- *[PRIVATE]; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

In reaching its decision, the panel also had regard to the NMC Guidance, SAN-3d:

- *whether the seriousness of the case require temporary removal from the register?*

- *will a period of suspension be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, or professional standards?*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

The panel went on to consider a striking-off order. The panel was aware that a striking-off order cannot be imposed for [PRIVATE]. However, this exemption does not apply to misconduct and conviction and therefore the panel went on to determine why a striking-off order would not be imposed on this occasion.

The panel determined that in all the circumstances of your case a striking-off order would be wholly disproportionate. The panel also bore in mind Ms 1's documentary evidence in which she stated you had been an extremely hard working and effective nurse. Whilst a striking-off order would protect the public there are no clinical concerns about your practice. Consequently, it was of the view that to deprive the public of an otherwise competent and dedicated nurse, [PRIVATE]. Furthermore, the panel was of the view that, given your proactiveness, evidence of developing insight and remorse in respect of your [PRIVATE], conviction and misconduct. You are engaging with the NMC and have indicated your intention to continue. Further there is a single incident of misconduct which arose out of your conviction for driving with excess alcohol. The panel determined that a suspension order is sufficient to mark the seriousness of the misconduct.

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 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 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 standards of behaviour required of a registered nurse.

In making this decision, the panel considered Mr Colvile's submissions in relation to the sanction that the NMC was seeking in this case. The panel also considered your oral submissions in relation to the sanctions stage. [PRIVATE].

The panel decided that a suspension order would satisfy the public protection concerns by having you removed from nursing practice for the time being. The panel was also of the view that it would be in the public interest as you are a nurse that has been able to demonstrate developing insight into your failings and that you are working towards making further improvements in order to remain on the register.

The panel determined that a suspension order for a period of 12 months was appropriate in this case to mark the seriousness of the misconduct, protect the public, and would assist you in your process of recovery.

At 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:

- [PRIVATE]
- [PRIVATE]
- [PRIVATE]
- [PRIVATE]

- Full reflections ideally using a reflective model of the impact of your misconduct and its impact on the regulator, and the wider public interest
- On-going engagement with the NMC

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 or is otherwise in the public interest until the striking-off order takes effect.

Submissions on interim order

Mr Colvile invited the panel to impose an interim suspension order for a period of 18 months. He submitted that this interim order is necessary on the grounds of public protection, and it is also in the public interest, having regard to the panel's findings.

You did not oppose this application.

Decision and reasons on interim order

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

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.

[PRIVATE]. However, as it remains open for you to have a change of view once these proceedings have concluded, the panel determined it was necessary for the reasons of public protection and in the public interest.

The panel determined to make an interim suspension order for 18 months. It considered that this was proportionate and consistent with its earlier findings. The panel also considered were it not to do so it would risk diminishing public confidence in the nursing profession and the NMC as a regulator.

If no appeal is made, then the interim suspension order will be replaced by the suspension order, 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.