

**Nursing and Midwifery Council  
Fitness to Practise Committee  
Substantive Hearing  
8 November 2019**

Nursing and Midwifery Council, 114-116 George Street, Edinburgh, EH2 4LH

**Name of registrant:** Leanne Mcgough

**NMC PIN:** 99I3063E

**Part(s) of the register:** Registered Nurse – Sub part 1  
Adult Nursing (16 September 2002)

**Area of Registered Address:** Northumberland, Tyne and Wear

**Type of Case:** Conviction

**Panel Members:** Irene Kitson (Chair, Lay member)  
John McGrath (Registrant member)  
Derek McFaul (Lay member)

**Legal Assessor:** David McLean

**Panel Secretary:** Tara Hoole

**Miss Mcgough:** Not present and not represented in absence

**Nursing and Midwifery Council:** Represented by Dulcie Piff, NMC Case  
Presenter

**Consensual Panel Determination:** Accepted

**Facts proved:** All

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** Caution order – 5 years

**Interim Order:** N/A

## **Decision on Service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Mcgough was not in attendance and that written notice of this hearing had been sent to Miss Mcgough's registered address by recorded delivery and by first class post on 8 October 2019. Royal Mail Track and Trace shows that notice of this hearing was collected from Sunderland City Enquiry Office on 11 October 2019 and was signed for in the printed name 'Mcgough'. Further, the panel noted that notice of this hearing was also sent to Miss Mcgough's representative at the Royal College of Nursing (RCN) on 8 October 2019.

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

Ms Piff submitted that the Nursing and Midwifery Council had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Mcgough has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34. It noted that the rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Decision on proceeding in the absence of the Registrant**

The panel next considered whether it should proceed in the absence of Miss Mcgough.

The panel had regard to Rule 21 (2) which states:

- (2) Where the registrant fails to attend and is not represented at the hearing, the Committee—
- (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;
  - (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
  - (c) may adjourn the hearing and issue directions.

Ms Piff invited the panel to proceed in the absence of Miss Mcgough on the basis that she had voluntarily absented herself. She informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Miss Mcgough on 3 October 2019. Ms Piff referred the panel to paragraph 2 of the CPD which states:

*'Miss Leanne McGough ("the Registrant") is aware of this hearing and invites the panel to proceed in her absence. She is anxious to engage with proceedings and should the panel have any questions she and her representative from the Royal College of Nursing will endeavour to be available by telephone to answer them.'*

Ms Piff referred the panel to the email, dated 29 October 2019, from Miss Mcgough's representative at the RCN which states:

*'I confirm that there will be no attendance by, or on behalf of, [Miss Mcgough] at the CPD approval hearing on 8 November.'*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “*with the utmost care and caution*”.

The panel has decided to proceed in the absence of Miss MCGough. In reaching this decision, the panel has considered the submissions of Ms Piff, the representations of the RCN, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and *R. v Jones (Anthony William)*, (No.2) [2002] UKHL 5 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss MCGough has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- Miss MCGough has voluntarily absented herself from these proceedings;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Miss MCGough.

### **Consensual Panel Determination**

At the outset of this hearing, Ms Piff, on behalf of the NMC, informed the panel that prior to this hearing a provisional agreement of a CPD had been reached with regard to this case between the NMC and Miss MCGough.

The agreement, which was put before the panel, sets out Miss Mcgough's full admission to the facts alleged in the charges and that Miss Mcgough's fitness to practise is currently impaired by reason of that conviction. It is further stated in the agreement that an appropriate sanction in this case would be a caution order for a period of five years.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

*'The Nursing and Midwifery Council and Miss Leanne McGough, PIN 99I3063E ("the parties") agree as follows:*

*1. Miss McGough admits the following charges:*

*That you a registered nurse:*

- 1. On 28 February 2019 in the Crown Court at Newcastle Upon Tyne, were convicted of the following:*
  - a. Committing an act with intent to pervert the course of justice;*
  - b. Causing serious injury by dangerous driving.*

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

### **The Agreed Facts**

- 2. The Registrant appears on the register of nurses and midwives maintained by the NMC as a Registered Nurse – Adult. She registered on 16 September 2002.*
- 3. The NMC received a self-referral from the Registrant on 19 January 2019. At the material time, the Registrant was employed as a Junior Sister on Ward E56 at*

*Sunderland Royal Hospital. She remains in the employ of City Hospitals Sunderland NHS Foundation Trust.*

- 4. The circumstances giving rise to the referral are as follows. On 5 August 2018, the Registrant, her friends and members of her family attended a glamping site in order to celebrate the Registrant's birthday. After partaking in a barbeque and consuming alcohol with her guests, the Registrant agreed to give her friend's 16 year old daughter, (Person A), an impromptu driving lesson as the glamping site was situated on private land.*
  
- 5. After moving the vehicle in which the lesson was to take place from where it was originally parked, the Registrant swapped places with Person A and occupied the front passenger seat. The vehicle had been left in reverse gear resulting in a collision with two individuals from the group of birthday celebrants, once Person A had entered the driver's seat and depressed the accelerator. One individual was uninjured as a result of the collision, however the second, (Person C), suffered serious injury. The car ran over her leg, pinning her to the ground. She sustained a broken ankle, severe ligament and nerve damage, and she ultimately required three operations, with treatment ongoing in respect of the injuries. They required such intervention as an artery transplant from her arm to the injured leg, and a skin graft. There was also a fractured rib and burns from the fire-pit to her foot. She had to stay in hospital for nearly a month and was then discharged, but with ongoing rehabilitation required.*
  
- 6. The police attended and Person A's mother, Person B, told the police that she, not Person A, had been driving. The Registrant gave an account consistent with this; that she had been the passenger and Person B was the driver. The Registrant and Person B maintained this dishonest account in police interviews.*
  
- 7. By the following morning the Registrant, Person A and her mother, Person B, resolved to attend the police station and relate the true version of events to officers.*

*After attending the police station and informing officers of the truth, the Registrant was arrested and later released pending further investigation.*

*8. The Registrant, at this stage, informed her employer of the events leading up to her arrest and that she had been released while the police carried out further investigations.*

*9. Following charge by the police, on 28 February 2019 the Registrant entered guilty pleas to charges and was convicted of:*

- Perverting the course of justice  
(Contrary to Common Law)*
- Causing serious injury by dangerous driving  
(Contrary to section 1A Road Traffic Act 1988)*
- Using a motor vehicle without insurance*

*10. On 26 April 2019, the Registrant appeared at Newcastle Upon Tyne Crown Court where she received a sentence of 21 months' imprisonment, wholly suspended for two years, and an unpaid work requirement of 200 hours in respect of the first two counts. She was also disqualified from driving for two years (such disqualification to remain until she has passed an extended driving test after the expiration of the two years) in respect of the second count. No separate penalty was imposed in respect of the driving without insurance charge but her driving licence was endorsed.*

*11. When passing sentence, the judge said the following:*

*“Leanne McGough, you’re a staff nurse, or ward sister, on the Deliria and Dementia Unit at Sunderland Royal Hospital. Amongst the thirty powerful references and letters of support I have read are numerous references from managers, consultant geriatricians, and other colleagues, who describe you as a dedicated, professional, caring, considerate and responsible nurse, who focusses on both the wellbeing of patients and the development of more junior nurses. I’m told that the outcome of this case will determine whether or not you*

*keep your employment. Given all I have read about your commitment and abilities as a nurse, it would be plainly a significant loss both to Sunderland Hospital and nursing more widely if you didn't keep your job in the long-term. The probation report describes you as full of remorse and guilt for your involvement in what occurred, and you're also described as a low risk of reoffending."*

*Addressing both the registrant and Person B, who was sentenced alongside her, the judge identified salient features of the case which informed his sentencing:*

*"For the avoidance of any doubt, I've also concluded there are exceptional features of this case on the facts. What distinguishes this case from many is the following. First, the fear was not only that of a mother for her daughter, but of a mother for her daughter who was a real risk of self-harm or worse. Second, no innocent party was arrested or fell under suspicion for the offence. Third, and perhaps in particular, you all voluntarily attended to report what you'd said and make full admissions to what you'd done within a very short space of time. Taking all of those factors into account, I have concluded that I'm just able to suspend both of your sentences."*

### **Registrant's response**

*12. As noted above the Registrant notified the NMC on 19 January 2019 that she had been charged with perverting the course of justice and driving offences. The Registrant provided a reflective piece dated 1 March 2019 (attached at Appendix 1). In this, the Registrant said:*

*"I know and fully accept that within my role as a Registered nurse I am responsible for protecting patient and public safety. I know what I have done is completely wrong and is completely out of character. I have been in shock and am very ashamed and remorseful for what I have done. There was no malice or intent to cause harm or injury on that day, and what has happened will remain with me forever. My friend who was injured has had to spend a period of time in*

*hospital undergoing surgery and has been left with horrific scars both physically and mentally...*

*And, further:*

*“I am so sorry for not telling the truth and I appreciate and wholeheartedly apologise for the damage that my behaviour has caused not only to the nursing profession but in terms of wasting police and Court time. As a nurse I am trusted to always be open and honest and I have prided myself in always living in accordance with the nursing code. I hope to be allowed to continue to nurse as this is my passion and I know I have made a difference in people’s lives and would like to continue to do so”*

*13. The Registrant has provided a further reflective piece to the NMC on 1 July 2019 (attached at Appendix 2) and testimonials and references (attached at Appendix 3)*

### ***Current Impairment***

*14. Ms McGough admits that her fitness to practise is impaired by reason of her convictions. In considering the question of impairment, the parties have paid heed to the case of CHRE v NMC & Grant [2011] EWHC 927 (Admin) (“Grant”) in which Mrs Justice Cox adopted the matters outlined by Dame Janet Smith in the Fifth Shipman report which invites panels to ask:*

*Do our findings of fact show that the Registrant’s fitness to practise is impaired in the sense that she:*

- 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 professions 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 professions; and/or*

15. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

16. *The parties agree that while the Registrant's actions caused very serious harm to Person C, this incident was not related to the Registrant's clinical practice and so she has not acted in such a way that patients were placed at risk of harm. The parties agree however that the three remaining limbs have been engaged in this case.*

17. *The Registrant's actions in her private life, which resulted in very serious convictions, have brought the profession into disrepute. The Registrant accepts that she is required to abide by the laws of the country in which she is practising but failed to do so. The registrant's conduct resulted in very serious harm being inflicted on Person C. The Registrant's dishonesty in the immediate aftermath may have hampered the police in their investigation. Notwithstanding that there are mitigating factors, the registrant's convictions have brought the profession into disrepute.*

18. *Nursing is a caring profession whose members are expected to uphold high standards of professional behaviour. It is a requirement of the Code of Conduct that nurses must uphold the law, act honestly at all times and cooperate with any investigations. If any principles can be identified as fundamental tenets of the profession, it is these. The registrant's convictions for causing serious injury by dangerous driving, and perverting the course of justice, have breached fundamental tenets of the profession.*

19. *The parties agree that the Registrant has been dishonest. As the sentencing judge noted in his sentencing remarks, cases involving perverting the course of justice strike at the very heart of our justice system.*

20. *The Registrant has engaged with the NMC throughout the duration of the investigation, admitting the charges against her and impairment. As noted above, the Registrant has demonstrated remorse for her actions and a clear insight into the effect that her convictions have had on the reputation of the profession. The parties have taken account of the sentencing judge's remarks that the Registrant is "a low risk of reoffending". The parties have considered the Registrant's remorse and insight as demonstrated in her reflective pieces (see Appendices 1 and 2). The parties have also acknowledged the plethora of positive testimonials from colleagues and peers who give a clear picture of a dedicated member of the profession. The parties agree for all these reasons the risk of the Registrant repeating her criminal conduct is very low.*
21. *The parties agree however that the serious nature of the criminal offences of causing serious injury by dangerous driving and perverting the course of justice is such that a finding of impairment is required in the public interest in order to maintain public confidence in the profession and to uphold proper professional standards. The Registrant's failure to observe the law, dishonesty and subsequent suspended sentence of imprisonment could undermine public confidence in the professions were a finding of impairment not to be made.*
22. *For the avoidance of doubt, the parties acknowledge that the Registrant was convicted of a third offence, driving without insurance. Whilst the parties do not condone this behaviour, the parties also note that the conviction attracted no separate penalty. The parties consider that this offence is not sufficiently serious to impair the Registrant's fitness to practise and hence is not included in the regulatory charge against her.*
23. *The parties acknowledge that a finding of current impairment is a matter for a panel's professional judgment; however the panel is invited by the parties to accept the above matters and find that the Registrant's fitness to practise is currently impaired.*

## **Sanction**

24. *The parties agree that the appropriate sanction in this case is a **caution order for five years.***

25. *In reaching this decision the parties have taken into account the relevant aggravating and mitigating features. The aggravating features include: that the Registrant was inebriated and she exercised poor judgement in deciding to give a 16 year old, who had also consumed alcohol and was described as 'extremely drunk', driving lessons. Person C sustained multiple injuries after being pinned to the ground by the vehicle as it came to a stop. Person C was hospitalised for a month and required three operations including a skin graft and an artery transplant and has ongoing rehabilitation requirements. The Registrant was dishonest in the immediate aftermath when she lied to police about the extent of her involvement. She was sentenced to a total of 21 months' imprisonment suspended for two years.*

26. *The parties agree that the mitigating features in this case include: The Registrant has practised for 17 years with an otherwise unblemished career record and has never previously come to the attention of the NMC as a regulator. The regulatory concern relates to one incident outside of work and is unrelated to the Registrant's clinical practice. The Registrant took steps soon after her dishonest act to put things right. She has provided two reflective pieces in which she has expressed remorse, demonstrated insight and apologised for her conduct.*

27. *A letter dated 14 May 2019 has been provided by the Registrant's employer, highlighting her candour regarding the incident and surrounding circumstances, as well as her continuous and timely updates to the HR and Senior Management Team at the NHS Trust (included in Appendix 3). The letter outlines that the Registrant complied fully with the Trust's requirement that she complete a*

written reflection regarding the incident and a letter has been placed on the Registrant's file. The Trust have "no concerns about [the Registrant's] performance clinically or professionally within her role".

28. The Registrant has been provided with multiple positive character and practice-related references/testimonials written by individuals aware that she was facing criminal prosecution for her conduct. Additionally, the Registrant entered pleas of guilty on her second appearance at court and accepted responsibility for her actions as well as, self-referring to the NMC. Her conduct, though dishonest, was unrelated to her clinical practice.

29. During the sentencing phase of the criminal proceedings in respect of the Registrant, the Judge commented:

*"Given all that I have read about your commitment and abilities as a nurse, it would plainly be a significant loss both to Sunderland Hospital and nursing more widely if you didn't keep your job in the long-term. The probation report describes you as full of remorse and guilt for your involvement in what occurred, and you're also described as a low risk of reoffending."*

30. The parties have taken into account the NMC's sanctions guidance including those sections relating to criminal convictions and dishonesty. The parties agree that this is not a case where the Registrant's dishonesty was premeditated. It was a deliberate attempt to cover things up, albeit not in a clinical setting, and the Registrant decided to tell the truth shortly afterward. This was dishonesty in a one-off incident in the Registrant's private life. The Registrant's convictions resulted in a lengthy suspended custodial sentence and have caused to the reputation of the profession. Taking these factors into account, the parties agree that the public interest would not be protected by taking no further action.

31. *The parties agree that a caution order is the appropriate sanction. The parties agree that there is no risk to the public or patients which requires the Registrant's practice to be restricted. Indeed, in light of the many positive references attesting to the Registrant's skill as a clinical practitioner, there is a public interest in permitting a good nurse to continue to practise. This order nonetheless marks that the Registrant's behaviour was unacceptable and must never happen again.*
32. *The parties agree that the appropriate length of the caution order is five years. In reaching this conclusion the parties have taken into account the serious nature of the Registrant's criminal convictions. It is appropriate and proportionate that this seriousness is marked by a caution order made for the maximum available length. The parties are also mindful that the Registrant is subject to a suspended sentence which will be in place until 25 April 2021. The parties have observed the general principle set down by the courts in the case of Council for the Regulation of Health Care Professionals v (1) General Dental Council and (2) Fleischmann [2005] EWHC 87 (QB) that a nurse should not resume unrestricted practise until the completion of her sentence. The parties consider that this is a general but not absolute principle which requires the removal of the Registrant from the register. During the remaining currency of the Registrant's suspended sentence a caution order will remain against her entry on the register marking her past conduct. The parties agree that this is sufficient to uphold the public interest.*
33. *The parties have gone on to consider whether any other sanction would be appropriate. A Conditions of Practice Order is not appropriate as the regulatory concern does not relate to her clinical practice and there are no workable conditions that would be appropriate in respect of the regulatory concern. A Suspension Order would be punitive in its effect as there is no suggestion that the Registrant poses a significant or any risk of harm to the public and that there is a need for her practice to be restricted. The parties agree that a suspension, and for the same reasons, a striking order, would be disproportionate because it*

*would have the effect of removing a good nurse from treating patients when a lesser sanction would be sufficient. The public interest in marking the regulator's disapproval of the Registrant's convictions is adequately marked by a caution order for five years.*

*34. The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges set out at section 1 above, and the agreed statement of facts set out at section 2 above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'*

Here ends the provision agreement between the NMC and Miss Mcgough. The provisional agreement was signed by Miss Mcgough and the NMC on 26 September 2019.

### **Decision and reasons on the consensual panel determination**

The panel decided to accept the provisional CPD agreement.

The panel heard and accepted the legal assessor's advice. He referred the panel to the NMC Sanctions Guidance (SG) and to the NMC's guidance on Consensual Panel Determinations. He reminded the panel that they could accept, reject or propose amendments to the provisional CPD agreement reached between the NMC and Miss Mcgough. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the profession and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Miss Mcgough admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Miss Mcgough's admissions as set out in the signed provisional agreement before the panel.

Prior to moving on to impairment the panel considered it was required to determine its position in respect of the third offence, that of driving without insurance, which has not been charged by the NMC.

The panel considered a conviction for driving without insurance to be a serious matter which could also have been charged by the NMC. However, in the context of this case the panel was of the view that it did not give rise to any additional regulatory concerns. Whilst the panel does not accept the reasoning given in paragraph 22 of the provisional CPD agreement that the offence of driving without insurance "is not sufficiently serious" it is satisfied that no amendment is necessary as the relevant regulatory concerns have been addressed.

The panel then went on to considered whether Miss Mcgough's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Mcgough, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel considered whether Miss Mcgough's fitness to practise is currently impaired by reasons of her conviction.

The panel considered the "Grant test" as follows:

*Do our findings of fact show that the Registrant's fitness to practise is impaired in the sense that she:*

- 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 professions 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 professions; and/or*
- d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

The panel considered that limbs b, c, and d of the “Grant test” are engaged in this case. The panel noted that no patients were harmed or put at risk of harm by Miss Mcgough’s actions. However, Miss Mcgough’s behaviour, which included dishonest conduct, and her subsequent convictions have brought the nursing profession into disrepute and breached fundamental tenets of the nursing profession.

When considering Miss Mcgough’s insight the panel noted that Miss Mcgough tendered early guilty pleas to the criminal charges and she self-referred to the NMC. Miss Mcgough provided two reflective pieces which, in the panel’s view demonstrated her understanding of the impact of her actions on others and on the reputation of the profession and demonstrated a significant level of remorse. Further, Miss Mcgough admitted her dishonest conduct the morning following the incident and tried to rectify the situation. The panel therefore determined that Miss Mcgough has a significant level of insight.

The panel considered the risk of repetition of this behaviour. The panel noted this was a one-off incident. The panel noted the remarks of the trial judge and Miss Mcgough’s probation officer who indicated the risk of Miss Mcgough reoffending is very low. Given this, along with Miss Mcgough’s level of insight, the panel considered the risk of repetition to be very low.

The panel considered that Miss Mcgough’s actions were serious, the incident resulted in severe injury to a member of the public and her subsequent actions were dishonest.

This resulted in a criminal conviction and 21 month prison sentence suspended for two years. Further Miss Mcgough was disqualified from driving for a period of two years. The panel therefore determined that Miss Mcgough's fitness to practise is currently impaired on the grounds of public interest in order to uphold the standards of conduct and behaviour expected of a registered nurse as well as to maintain public confidence in the profession and the NMC.

The panel did not consider that Miss Mcgough's fitness to practice was impaired on the grounds of public protection.

In this respect the panel endorsed paragraphs 14 to 23 of the provisional agreement.

Having found Miss Mcgough'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. The purpose of any sanction is not intended to be punitive even though it may have a punitive effect. The panel had careful regard to the SG. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor.

The panel considered the imposition of a caution order to be the appropriate and proportionate sanction in this case. The effect of this order is that Miss Mcgough's entry on the NMC register will show that she is subject to a caution order and anyone who enquires about her registration will be informed of this order.

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 noted the dishonesty in this case. It considered that the dishonesty was not pre-meditated and was put right as soon as practicable. The panel considered that taking no action would not send a signal as to how behaviour resulting in criminal convictions is viewed. The panel therefore

decided that it would not be appropriate, proportionate or in the public interest to take no further action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 noted that the behaviour which gave rise to the charges was not in a clinical setting but was a tragic event among friends in Miss Mcgough's personal life. The panel noted that Miss Mcgough has shown significant insight into her conduct and that she made early admissions, self-referred to the NMC and has demonstrated evidence of genuine remorse.

The panel considered that whilst these charges are serious Miss Mcgough is highly unlikely to repeat this behaviour. In this way the panel considered that Miss Mcgough's current level of impairment is at the lower end of the spectrum of impaired fitness to practise.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at conditions of practice. The panel considered that a conditions of practice order was not appropriate given that the charges do not relate to Miss Mcgough's clinical skills. Further the panel considered that there were no conditions it could impose which would mitigate against behaviour as detailed in the charges. The panel therefore concluded that no useful purpose would be served by a conditions of practice order. In addition it is not necessary to protect the public.

Further, the panel considered that a suspension order would be disproportionate in the circumstances of this case. The panel noted the references and testimonials before it, from a wide range and number of colleagues, all of which attest to Miss Mcgough's ability as a nurse, her honesty and integrity. In addition Miss Mcgough's employers have

*'no concerns about [her] performance clinically or professionally'*. The panel considered there to be a public interest in allowing an experienced nurse to continue to practise.

For the avoidance of doubt, the panel considered that the inclusion of the charge of driving without insurance would not have altered its decision.

The panel has therefore determined that a caution order would adequately address the public interest concerns it has identified. In considering what length of sanction to impose the panel considered that, as a minimum, it must cover the remaining period of Miss Mcgough's criminal sentence. Miss Mcgough was sentenced on 26 April 2019 to 21 months imprisonment suspended for two years and was banned from driving for two years. The panel therefore concluded that any caution order imposed required to cover at least this period.

Having considered the general principles above and looking at the totality of the findings on the evidence, the panel has determined that to impose a caution order for the maximum period of five years would be the appropriate and proportionate response given the seriousness of this case. It would mark not only the importance of maintaining public confidence in the profession, but also send the public and the profession a clear message about the standards required of a registered nurse. For the next five years Miss Mcgough's employer or any prospective employer will be on notice that her fitness to practise has been found to be impaired and that her practice is subject to a restriction.

At the end of this period the note on Miss Mcgough's entry in the register will be removed. However, the NMC will keep a record of the panel's finding that her fitness to practise had been found impaired. If the NMC receives a further allegation that her fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

For those reasons the panel decided to accept the provisional CPD agreement and impose a caution order for a period of five years.

This decision will be confirmed in writing.