

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

**Substantive Hearing  
Friday 28 May 2021**

Virtual Hearing

<b>Name of registrant:</b>	<b>Joanne Knight</b>
<b>NMC PIN:</b>	9713438E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult, Level 1 - September 2000
<b>Area of registered address:</b>	Cumbria
<b>Type of case:</b>	Conviction
<b>Panel members:</b>	Helen Potts (Chair, Lay member) Jodie Jones (Registrant member) James Hurden (Lay member)
<b>Legal Assessor:</b>	Marian Killen
<b>Panel Secretary:</b>	Safa Musad
<b>Nursing and Midwifery Council:</b>	Represented by Alastair Kennedy, Case Presenter
<b>Ms Knight:</b>	Not present and represented by Ray Short, Counsel instructed by Unison
<b>Consensual Panel Determination:</b>	Accepted
<b>Facts proved:</b>	All
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Caution order (3 years)</b>
<b>Interim order:</b>	<b>N/A</b>

## **Details of charge**

*'That you, being a registered nurse*

- 1. Were convicted at Workington Magistrates Court on the 17th January 2020 of the offence of driving a motor vehicle at Howgate on the 21st December 2019 on a road, namely the B5306, after consuming so much alcohol that the proportion of it in your breath, namely 128 microgrammes of alcohol in 100 millilitres of breath exceeded the prescribed limit contrary to s. 5 (1) (a) of the Road Traffic Act 1988 and schedule 2 to the Road Traffic Offenders Act 1988.*

*AND in the light of the above, your fitness to practise is impaired by virtue of this conviction.'*

## **Consensual Panel Determination**

Mr Kennedy, on behalf of the Nursing and Midwifery Council (NMC) informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Ms Knight.

The agreement, which was put before the panel, sets out Ms Knight's full admissions to the charge, and her acceptance that her fitness to practise is currently impaired by reason of her conviction for drink driving. It is further stated in the agreement that an appropriate sanction in this case would be a Caution Order for a period of three years.

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

The panel drew Mr Kennedy and Mr Short's attention to some minor typographical errors within the CPD agreement. Mr Kennedy and Mr Short both indicated that they were content for the necessary minor amendments to be made.

That provisional CPD agreement as agreed by all the parties, now reads as follows:

'The Nursing & Midwifery Council and Joanne Knight, PIN 9713438E ("the Parties") agree as follows:

1. Joanne Knight is aware of the CPD hearing. It is not her intention to attend the hearing but she consents to it proceeding in her and her representative's absence. She will endeavour to be available by telephone should any clarification on any point be required, or should the panel wish to make any amendment to the provisional agreement. She understands that if the panel wishes to make amendments to the provisional agreement that she doesn't agree with, the panel will reject the CPD and refer the matter to a substantive hearing.

#### **Preamble**

2. This draft consensual panel determination has been agreed and signed between the parties after a formal notice for a substantive hearing was sent to the Registrant. The substantive hearing has been changed to a consensual panel determination hearing. The NMC has requested, and the Registrant is in agreement, that the formal notice period of 28 days should be waived to allow for this case to be heard at a consensual panel determination hearing and determined as soon as practicable.

#### **Matters to be held in private**

3. The Panel are invited to go into private under rule 19 (3) of the FTP Rules 2004 when appropriate and when it is in the interests of the Registrant to do so. The Parties agree that discussion of personal matters and/or any health condition would be apt to be held in private.

#### **The charge**

4. Joanne Knight admits the following charge. Accordingly, the Panel is invited to find the charge proved.

That you being a registered nurse

Were convicted at Workington Magistrates Court on the 17th January 2020 of the offence of driving a motor vehicle at Howgate on 21 December 2019 on a road, namely the B5306, after consuming so much alcohol that the proportion of it in your breath, namely 128 microgrammes of alcohol in 100 millilitres of breath exceeded the prescribed limit contrary to s. 5 (1) (a) of the Road Traffic Act 1988 and schedule 2 to the Road Traffic Offenders Act 1988.

And in light of the above, your fitness to practise is impaired by virtue of this conviction.

### **Agreed facts**

5. Ms. Knight appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse - Adult and has been a registered nurse since 1 October 2000.
6. At the material time, she was employed as a Registered Nurse by North Cumbria Integrated Care NHS Foundation Trust (the 'Trust'). She remains employed by the Trust to date.
7. On 21 December 2019 at 21:10 hours, the Police were alerted by members of the public to a vehicle being driven on the A595 between Parton and Howgate, near Whitehaven, that had been observed weaving over the road. The informants followed the vehicle to a car park and noted that the driver got out of the vehicle and went into a public house/restaurant.

8. Police officers located Ms. Knight on the first floor of the public house/restaurant where she was observed to be visibly upset apparently holding what appeared to be a glass of wine. The Police officers took Ms. Knight outside and attempted to conduct a roadside specimen test. Ms. Knight refused to undergo the roadside specimen test.
9. She was arrested for the offence of 'Failing to Provide' and was subsequently taken into Workington Custody. At Workington Custody, she provided two specimens of breath and participated in a Police interview.
10. On 21 December 2019, Ms Knight was charged with the offence of driving a motor vehicle on a road, namely B5306, after consuming so much alcohol that the proportion of it in her breath, namely 128 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. This amounted to approximately 3 ½ times the legal limit.
11. On 17 January 2020, Ms Knight pleaded guilty at Workington Magistrates' Court and was convicted and sentenced to a suspended sentence for a period of 12 months, curfew with electronic monitoring for a period of 5 weeks, was disqualified from holding or obtaining a driving licence for 30 months, and fined £200.
12. It is relevant to note for the purposes of *CRHCP v GDC & Fleischmann* [2005] EWHC 87 (Admin) that the period of suspension expired on the 16th January 2021.

## **Impairment**

13. Ms Knight's fitness to practise is currently impaired by reason of her conviction.
14. The parties have considered the question formulated by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J; They are as follows:
  - 14.1. 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
  - 14.2. Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or
  - 14.3. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or
  - 14.4. Has in the past acted dishonestly and/or is liable to act dishonestly in the future?
15. Ms Knight admits that her fitness to practise is impaired by reason of her conviction and the parties agree that the second and third limb of the 'Grant' test are engaged.
16. It is acknowledged that the charge occurred outside of work, during a period of leave from the Trust, and did not relate to Ms Knight's clinical practice, accordingly no patients were put at risk of harm.
17. Ms Knight accepts that her actions, resulting in a criminal conviction and receiving a 12 month suspended sentence, have brought the

profession into disrepute. Ms. Knight accepts that she must comply with the law of the country. It is to be noted that this insight and acceptance informs her admissions set out in her reflections of December 2020:

1. *I accept that my criminal conviction is capable of impairing my fitness to practise as a nurse, in that I received a suspended custodial sentence for the offence of driving a motor vehicle with excess alcohol.*
2. *I have been a nurse since 2000 and this is the first, and I sincerely believe, the last time that I will make such a serious error. [PRIVATE], I had never let it affect my work as a nurse. As the incident happened in my private life, no patients or staff were involved, but I do understand that the opinion of the general public and the reputation of my profession must be also be taken into account, and I am full of regret and remorse for what I did.*
3. *I was devastated and remorseful and I was ashamed that I had let down the public and my Trust. I realise that, as a nurse, I have a duty to uphold the reputation and the good name of nursing...*
5. *Once the incident occurred, I shared all of the information with my employing Trust and I cooperated openly and honestly with the Trust in their investigation. [PRIVATE].*
6. *Since my return to work, I have continued to work well with my colleagues, and I know that the Trust has no issues with my diligence and my clinical practice.*
7. *Having reflected over and over about this incident, [PRIVATE]. I have learned and acknowledged that I need to ask for help and not feel ashamed to do so. I have learned that I am not alone with my*

*concerns, but that help is always on hand. I know now that I do not have to cope on my own. This knowledge has allowed me to be confident that I can plan a safe nursing future, and that support is in place for me to engage early if I start to feel under pressure, at any time.*

*8. I believe that I can be true to the Nursing Code by promoting professionalism and trust. I do preserve the safety of all my patients and colleagues, and I prioritise the people I care for and work with. I have always been proud to be a nurse and I have never, before or since, ever done anything else to jeopardise the care of the patients or colleagues or the reputation of the NHS. I continue to learn, reflect, and repair the mistake that I made.'*

18. She accepts that the conduct which gave rise to her conviction amounted to a breach of fundamental tenets of the NMC's 'Code of Professional standards of practice and behaviour for nurses and midwives' (March 2015) (the 'Code') as noted below:

18.1. 20.1 keep to and uphold the standards and values set out in the Code

18.2. 20.4 keep to the laws of the country in which you are practising

19. Nurses are required to promote professionalism and trust, as such, there is a duty to consistently display a personal commitment to the standards of practice and behaviour set out in the Code.

20. Ms Knight has been convicted of a criminal offence. It is acknowledged that the incident took place entirely outside of her work and she did plead guilty at the earliest opportunity.

21. She has provided a detailed reflective piece dated 9 December 2020 and 26 April 2020, supplemented by submissions made on her behalf dated 26 April 2021 in which she demonstrates insight, remorse and shame for her actions. She has taken steps, with the support of the Trust, to address the underlying concerns that led to her actions. She has also provided a number of positive references from colleagues, attesting to her good character and nursing skills.

22. The parties have considered the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* in which the Court set out three matters that it describes as being 'highly relevant' to the determination of the question of current impairment. They are as follows:

22.1. Whether the conduct that led to the charge is easily remediable;

22.2. Whether it has been remedied;

22.3. Whether is it highly unlikely to be repeated?

23. The parties agree that the conduct that led to the conviction, namely driving whilst over the prescribed alcohol limit, is remediable and that steps can and have been identified to seek to address the underlying issues and reduce the risk of reoccurrence.

24. Ms Knight, as detailed within her reflective piece, acknowledged and addressed the underlying issues which led to the charge. [PRIVATE].

25. The parties consider that the risk of similar conduct occurring in the future has been very substantially reduced given Ms. Knight's insight, remorse and remedial steps that she has undertaken.

*Remediation, reflection, training, insight, remorse*

## 26. Appendix

26.1. Appendix 1: Joanne Knight's CPD submissions;

26.2. Appendix 2: Policy for North Cumbria Integrated Care NHS  
Foundation Trust: Professional Registration Policy

26.3. Appendix 3: Memorandum of Conviction

26.4. Appendix 4: Correspondence with the Trust

### *Public protection impairment*

27. A finding of impairment is not necessary on public protection grounds.

28. Joanne Knight first came onto to the NMC Register on [PRIVATE].

This is the first referral Joanne Knight has received and the Trust has no concerns over her practice.

29. The incident occurred [PRIVATE] the Trust and put no patients at risk of harm.

30. Based on the above paragraphs, there isn't public protection impairment in this case.

### *Public interest impairment*

31. A finding of impairment is necessary on public interest grounds and is the primary concern in this case.

32. Ms. Knight has been convicted of a criminal offence. This is a serious occurrence which will impact upon the reputation of the nursing profession. For the reasons set out above it is accepted that Ms. Knight's fitness to practise is impaired on the grounds of public interest.

## **Sanction**

33. The appropriate sanction in this case is a Caution Order for a period of 3 years. The Parties considered the NMC Sanction Guidance, bearing in mind that it provides guidance, not firm rules.

34. The Parties identified the following aggravating factors:

34.1. Joanne Knight was convicted of driving a motor vehicle after consuming so much alcohol that the proportion of it in her breath exceeded the prescribed limit.

34.2. The level to which she exceeded the legal limit was approximately 3 ½ times in excess thereof.

35. The Parties identified the following mitigating factors:

35.1. The driving should constitute an “isolated” event, particularly in the context of a career spanning over 20 years.

35.2. Numerous references from colleagues as to her good character and nursing skills;

35.3. She has completed her mandatory training and competences as well as mentoring students and new members of staff;

*Work history*

35.4 Ms Knight is currently working as a Band 5 Registered Nurse within the Endoscopy Unit in the Endoscopy Department at West Cumberland Hospital. She has been working in this specialist role within the Endoscopy Unit since 20 June 2017.

35.5 [PRIVATE]. It is during this period of time that the offence occurred, no patients were put at risk or harm as a result of this incident.

35.6 It is to be noted that the Trust came to reinstate Ms. Knight despite this lengthy absence, approximately 7 months off work.

35.7 The Trust has advised that Ms Knight [PRIVATE] no concerns regarding Joanne Knight's clinical practice or wider conduct.

35.8 This is the first referral the NMC has received in relation to Ms. Knight. She has worked as a Registered Nurse for just over 20 years with an unblemished career.

35.9 Ms. Knight returned to work at the Trust in April 2020 and worked for a substantial part of the Covid-19 pandemic, putting herself at risk of contracting the Coronavirus. What is notable from her reflections is that in both categories of work

(a) Working with the stressed patient undergoing endoscopies  
and

(b) Working with elderly patients.

Ms. Knight embraced the hardship faced by patients, colleagues and herself in the pandemic. It is suggested the reflections be

read holistically to infer Ms. Knight's character in meeting the challenges faced by patients and colleagues in this "strange time". Ms Knight addresses this in paragraphs 9 – 11 of her reflection:

*'9. Since I put in that response, I have continued to do all that I can to be the best nurse that I can. [PRIVATE], returning to work has been very challenging for many reasons. Especially at the time of a global pandemic. There has been increased pressure on all fronts in a fast-moving evolving situation. Keeping up to date with guidance and the pressure of full PPE, keeping risk to self and patients to a minimum, has added to the stress of work. All of which I have coped with. Fear of infection and protecting others, overcoming personal loss and continuing to deliver high quality care has been difficult. However, I feel that I have become stronger in myself and has enabled me to be more empathetic with others.*

*10. The uncertainty of where I would be working was extremely stressful but my dedication to nursing made me adapt quickly and I gained satisfaction from being able to help and support in any way. Staff levels were reduced due to isolation issues and patients were on their own without visitors. I went to elderly care to when redeployed. I found that the patients were very scared and isolated. I helped the patients in their activities of daily living, comforted them in strange times. I sat by the confused and gave a constant support for which they were grateful. This is one of the reasons I love being a nurse. At those moments of helplessness, I can make a difference. I adapt well to changes and flexible in what I can do and offer. I have worked extra shifts, stayed late, helped out in any way that I can.*

*11. Nursing in Covid times has been punishing. In my endoscopy unit we have to work, whilst in fully protective gear, with patients who are more distressed than ever. The cruel fact is that so many more of the patients in the endoscopy unit are receiving bad news because of delayed examinations or treatments. All this has put greater strain on the clinical staff, and I am proud to say that I have played my part in helping everyone through as best we can.*

*Personal circumstances*

35.10 [PRIVATE].

35.11 [PRIVATE].

35.12 [PRIVATE].

35.13 [PRIVATE].

35.14 [PRIVATE].

*Trust Policy*

35.15 The Trust's Professional Registration Policy (the 'Policy'), which can be found on page 41 - 41 of appendix 2, sets out that the Trust may, in cases where temporary measures affect registration, dismiss an individual on the grounds that the individual is unable to fulfil their contract of employment.

35.16 A suspension would clearly render her unable to fulfil her contract of employment.

*Insight and cooperation*

35.17 Ms. Knight's insight, remorse and shame into the incident and underlying problems;

35.18 On 21 December 2019, during the Police interview, Ms Knight admitted to the charge and whilst she did not participate in a roadside specimen test, she did provide two specimens of breath at the Police station.

35.19 She has been open with the Trust in relation to the charge and has been supported by the Trust [PRIVATE].

35.20 On 17 February 2020, Ms Knight emailed the NMC to make a self-referral admitting the charge. A copy of this email can be found at page 2 appendix 1.

35.21 Ms Knight pleaded guilty at the Workington Magistrates Court and this was taken into account when imposing a sentence.

35.22 She has cooperated at every stage of the NMC process as well as with the Police and Trust proceedings.

36The NMC guidance on Sanction provides the following for matters involving a criminal conviction:

*'...the purpose of the Fitness to Practise Committee when deciding on a sanction in a case about criminal offences is to achieve our overarching objective of public protection. When doing so, the Committee will think about promoting and maintaining the health, safety and wellbeing of the public, public confidence in nurses, midwives and nursing associates, and professional standards.'*

37 In considering what sanction would be appropriate the Parties began by considering whether this is a case where it would be appropriate to take no action. The NMC guidance on taking no further action provides as follows:

*'The Fitness to Practise Committee does have a discretion to take no further action and impose no sanction immediately after it has first decided that a nurse, midwife or nursing associate's fitness to practise is impaired. However, the panel will use this discretion only in rare cases, and it will need to explain its decision very clearly.'*

*This is because as part of its decision about fitness to practise, the panel must already have decided that the nurse, midwife or nursing associate:*

- *presents a continuing risk to patients*
- *was responsible for conduct or failings that undermined the public's trust in nurses, midwives or nursing associates, or*
- *breached one of the fundamental tenets of the professions.*

*Any one of those factors, or more than one, may apply in a particular case. They will usually mean that to achieve our overarching objective of public protection, the panel needs to take action to secure patient safety, to secure public trust in nurses, midwives and nursing associates, or to promote and maintain proper professional standards and conduct.'*

38 The parties agreed that such a course would be inadequate to uphold the public confidence in nurses and to promote proper professional standards.

39The Parties next considered whether a Caution Order would be appropriate. A Caution Order may be appropriate where there is no risk to the public or to patients.

40The NMC guidance on Caution Orders provides the following:

*'A caution order is only appropriate if the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.'*

*'Because a caution order doesn't affect a nurse, midwife or nursing associate's right to practise, the Committee will always need to ask itself if its decision about the nurse, midwife or nursing associate's fitness to practise indicated any risk to patient safety.'*

*'If it did, the panel members will then have to ask themselves whether a caution order will be enough to protect the public, given that it would allow the nurse, midwife or nursing associate to continue to practise without any restriction.'*

41The Parties agreed that a Caution Order for a period of 3 years would adequately address public interest and maintain confidence in the profession. The parties will return to this.

42The Parties went on to consider whether a Conditions of Practice Order would be appropriate. The NMC guidance on when a Conditions or Practice Order is appropriate are as follows:

*'The key consideration for the panel, before making this order, is whether conditions can be put in place that will be sufficient to protect patients or service users, and if necessary, address any concerns about public confidence or proper professional standards and conduct.'*

*Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):*

- *no evidence of harmful deep-seated personality or attitudinal problems*
- *identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or retraining*
- *no evidence of general incompetence*
- *potential and willingness to respond positively to retraining*
- *the nurse, midwife or nursing associate has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision*
- *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*
- *conditions can be created that can be monitored and assessed.'*

43In light of the fact that the incident occurred out of the workplace and that the Trust has no concern over Ms Knight's practice, the Parties agree that she does not pose a risk to patients, a Conditions of

Practice Order would not be relevant, proportionate or workable to address the public interest.

44The Parties also considered a Suspension Order. The NMC guidance on imposing a Suspension Order is as follows:

*'Key things to weigh up before imposing this order include:*

- *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?*

*Use the checklist below as a guide to help decide whether it's appropriate or not. This list is not exhaustive:*

- *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, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour*
- *in cases where the only issue relates to the nurse, midwife or nursing associate's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions*

- *in cases where the only issue relates to the nurse, midwife or nursing associate's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions'*

45A Suspension Order may adequately reflect the seriousness of a criminal conviction, and may be sufficient to uphold the trust and confidence in the profession and regulatory process. However, in this particular case, the parties agree that such a course would be disproportionate for the following reasons:

(1) It would deprive Ms. Knight of the very livelihood by which, [PRIVATE].

(2) It would reverse the [PRIVATE] taken by the Trust in trusting her to return to practise in April 2020. That Trust's faith in her has been validated by Ms. Knight's actions and commitment to nursing. A suspension could lead to the Trust having to terminate Ms. Knight's contract of employment due to her "inability to fulfil her contract" in the period of suspension.

(3) It would pay insufficient regard to Ms. Knight's insight and remorse evident since the event itself in December 2019.

(4) Most of all it would pay insufficient regard to the public interest in retaining Ms. Knight as a practising nurse in the light of

(a) Her specialist skills in endoscopy.

(b) Her commitment to nursing, self-training and training others.

(c) Her embracing of the personal risks to which she exposed herself for over a year in returning to the Trust when the pandemic was rife, her

self-evident desire to protect and comfort endoscopy patients and the elderly as well as colleagues.

(5) Sacrifices made by nurses in the Covid pandemic have been the source of much concern. It is this very type of case, where an isolated incident has brought the profession into disrepute that the Panel is asked to gauge that against Ms. Knight's contribution in the year following her return [April 2020-2021], her contribution to the care of patients [so readily able to infect her] and the generosity and selflessness of her actions and words set out at paragraphs 9-11 of her reflection.

(6) It is contended that a suspension posing a real risk of termination of Ms. Knight's employment would create disproportionate consequences not least in the loss of Ms Knight's nursing but also in the loss of her care and support to patients and colleagues.

46 It is therefore contended that a 3 year caution would be the most appropriate sanction. The most appropriate sanction is a proportionate one, being the least restrictive required to maintain confidence in the profession. The sanction must uphold the public interest, and that must balance the needs of the profession with the circumstances of a capable nurse to whom the sanction applies.

47 A period of 3 years would adequately reflect the seriousness of Ms Knight's conviction. A shorter period of time would be insufficient in this addressing the seriousness and a longer period would be excessive in light of Ms Knight's remediation. The conviction posed no risk to the public or to the patients requiring Ms Knight's nursing and the Parties agree, based on the reasons set out above that a Caution Order for a period of 3 years would be the most appropriate sanction.

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 and the agreed statement of facts set out 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 provisional CPD agreement between the NMC and Ms Knight. The provisional CPD agreement was signed by Mr Short on Ms Knight's behalf 25 May 2021.

### **Decision and reasons on the CPD**

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Mr Kennedy referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that it could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Ms Knight. 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 professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel had regard to Mr Kennedy's submissions on behalf of the NMC. He outlined the background to Ms Knight's conviction and submitted that the NMC is satisfied that there is no underlying [PRIVATE] which led to the conviction will be repeated. He submitted that this is still a serious matter which can and has already impacted upon the reputation of the nursing profession. Mr Kennedy invited the panel to accept the CPD agreement as agreed by the parties.

The panel also took into account the submissions made by Mr Short who invited the panel to accept the CPD agreement. He drew the panel's attention to Ms Knight's long experience and career as a nurse. He submitted that there has been a lot of personal effort undertaken by Ms Knight and noted that she has engaged with the process and the NMC from the very start. Mr Short submitted that this was one single offence which Ms Knight accepts, notwithstanding her personal context at the time, and one that she has used to put herself back on track.

The panel took into account that Ms Knight admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of her admissions, as set out in the signed provisional CPD agreement. The panel also took into account the Memorandum of Conviction which it is entitled to accept as conclusive proof of Ms Knight's conviction.

### **Decision and reasons on impairment**

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

The panel noted that the parties have agreed that Ms Knight's fitness to practise is impaired only on the ground of public interest. The panel agreed that Ms Knight's fitness to practise is impaired on the ground of public interest by reason of her conviction for the same reasons as are set out in the provisional CPD agreement. The panel carefully considered whether a finding was also necessary on the ground of public protection but determined that it was not for the reasons set out in the provisional CPD agreement.

In this respect the panel endorsed paragraph 13 to paragraph 32 of the provisional CPD agreement.

## Decision and reasons on sanction

Having found Ms Knight's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Ms Knight was convicted of driving a motor vehicle after consuming so much alcohol that the proportion of it in her breath exceeded the prescribed limit.
- The level to which she exceeded the legal limit was approximately 3 ½ times in excess thereof.

The panel also took into account the following mitigating features:

- The conviction should be considered as an "isolated" event, particularly in the context of a career spanning over 20 years.
- Numerous references from colleagues as to her good character and nursing skills;
- She has completed her mandatory training and competences as well as mentoring students and new members of staff;

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.

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 Ms Knight has shown insight into her conduct. The panel noted that Ms Knight made admissions and has remediated, showing evidence of genuine remorse and the impact of her actions upon the nursing profession. Ms Knight has engaged with her employers and the NMC since the referral. The panel has been told that there have been no adverse findings in relation to Ms Knight's practice either before or since this incident. It also took into account the numerous testimonials which demonstrated that she has continued working well.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order. The panel noted Ms Knight's conviction was not related to her clinical practice and therefore a conditions of practice could not be formulated.

The panel concluded that no useful purpose would be served by a conditions of practice order. It is not necessary to protect the public and would not assist Ms Knight's return to nursing practice. The panel further considered that a suspension order would be wholly disproportionate in this case.

The panel agreed with the provisional CPD agreement that a Caution Order would adequately protect the public. For the next three years, Ms Knight's employer or any prospective employer will be on notice that her fitness to practise had been found to be impaired and that her practice is subject to a restriction. 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 a period of three years would be the appropriate and proportionate response. 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.

At the end of this period the note on Ms Knight's entry in the register will be removed. However, the NMC will keep a record of the panel's finding that Ms Knight's fitness to

practise had been found impaired. If the NMC receives a further allegation that Ms Knight's 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.

This decision will be confirmed to Ms Knight in writing.

That concludes this determination.