

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

**Substantive Meeting
Monday, 6 January – Thursday, 9 January 2024**

Virtual Meeting

Name of Registrant:	Heather Elisabeth Taylor	
NMC PIN	16B2518E	
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing - Level 1 - 25 May 2016	
Relevant Location:	Staffordshire	
Type of case:	Misconduct/Conviction	
Panel members:	Rachel Childs	(Chair, Lay Member)
	James Carr	(Lay member)
	Lisa Holcroft	(Registrant member)
Legal Assessor:	Gerard Coll	
Hearings Coordinator:	Margia Patwary	
Facts proved:	Charges 1, 2, 3 and 4	
Facts not proved:	None	
Fitness to practise:	Impaired	
Sanction:	Suspension order with a review (12 months)	
Interim order:	Interim suspension order (18 months)	

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Miss Taylor's registered email on 2 December 2024.

The panel accepted the advice of the legal assessor.

In exercising its due diligence, the panel took into account that the Notice of Meeting provided details of the allegation, information on when the meeting would take place (on or after 6 January 2025) and the fact that this meeting was to be heard virtually.

The panel then considered, whether it was appropriate to deal with this matter at a meeting. It reminded itself that the effect of doing so was that the Nursing and Midwifery Council (NMC) would not be represented and Miss Taylor would neither be present nor represented.

The panel had regard to the matters considered by the Investigation Committee summarised in its notice of hearing dated 2 December 2024. It confirmed that there had been no further correspondence from Miss Taylor since 8 February 2023 and concluded that it remained appropriate to deal with this matter at a meeting.

In the light of all of the information available, the panel was satisfied that Miss Taylor has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

The panel of its own volition, considered whether Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) should apply to the determination in this case.

[PRIVATE]

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

The panel determined that, [PRIVATE], the panel will hold parts of the meeting in private, which means there will be a private determination as well as a public outcome.

Details of charge

That you, a registered nurse:

- 1) On 24 January 2023 were convicted at Telford Magistrates' Court of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath, namely 75 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit on 13 December 2022.
- 2) On 13 December 2022, intended to attend your work shift under the influence of alcohol.
- 3) Failed to disclose you were charged with the offence set out in charge 1 above to your employer between 13 December 2022 and 25 January 2023.
- 4) Your actions at charge 3 lacked integrity in that you failed to inform your employer in a timely manner that you had been charged with a criminal offence.

AND in light of the above, your fitness to practise is impaired by reason of your conviction at charge 1 and misconduct at charges 2-4 above.

Background

Miss Taylor referred herself to the Nursing and Midwifery Council (NMC) on 13 January 2023. The regulatory concerns below relate to incidents that took place on 13 December 2022, whilst Miss Taylor was employed as a Band 6 Health and Wellbeing Nurse for Substance Misuse at Midlands Partnership University NHS Foundation Trust (the Trust).

The regulatory concerns were as follows:

1. Conviction – Miss Taylor was convicted of an offence of driving a motor vehicle with excess alcohol contrary to section 5 (1) (a) Road Traffic Act 1988
2. Failing to preserve patient safety – in that Miss Taylor intended to attend work while under the influence of alcohol

Decision and reasons on facts

Charge 1 concerns Miss Taylor's conviction and, having been provided with a copy of the certificate of conviction from Telford Magistrates' Court (Telford and Shropshire) dated 3 January 2023, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.— (2) Where a registrant has been convicted of a criminal offence—*
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

In reaching its decision on charges 2, 3 and 4, the panel took into account all the documentary evidence in this case together with the representations made by the NMC.

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 had regard to the written statements of the following witness on behalf of the NMC:

- Witness 1: Clinical Lead and Miss Taylor's line manager at the Trust.

- Dr 1: Director of Nursing and Infection
Prevention and Control at the Trust.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

The panel then considered each of the charges and made the following findings.

Charge 2

“On 13 December 2022, intended to attend your work shift under the influence of alcohol.”

This charge is found proved.

In reaching this decision, the panel took into account the witness statements of Witness 1 and Dr 1, the Breath Alcohol Test Record dated 13 December 2022, the MG5 and Miss Taylor’s self-referral form.

Witness 1 in her written statement stated:

“During that call, the Registrant explained that on the morning of 13 December 2022 while she was driving to work, she had seen a young person walking across the road and needed to swerve to avoid a collision with the young person. In doing so she collided with the central reservation on the road. The police arrived and breathalysed her. She said that she was two times the drink-driving limit.”

The panel had sight of the Breath Alcohol Test Record taken on the morning of the 13 December at 08:30 that Miss Taylor was due to attend work. The test indicated that Miss Taylor was found to be significantly over the legal drinking limit.

Although Miss Taylor stated that she was unaware that she was over the drink driving limit, the breathalyser result taken at the scene had a reading of three times the legal limit, with the evidential test recorded at the police station showing over two times the legal limit,

which indicated that Miss Taylor consumed a substantial amount of alcohol. The description of her driving contained within the MG5 indicated that another road user had been alarmed by her driving that morning. The panel therefore concluded that it was more likely than not that Miss Taylor had realised that she was under the influence of alcohol and would therefore be unfit for work. The panel also noted that Miss Taylor's role included work with people with substance misuse issues and would have led her to understand more fully the effect of alcohol and driving when attending work the morning after consuming alcohol.

The panel was satisfied on the balance of probabilities, that Miss Taylor intended to attend her work shift under the influence of alcohol and therefore finds this charge proved.

Charge 3

“Failed to disclose you were charged with the offence set out in charge 1 above to your employer between 13 December 2022 and 25 January 2023”

In reaching this decision, the panel took into account the witness statement of Witness 1 and the documented MG4 Charges dated 13 December 2022.

This charge is found proved.

Witness 1 in her written statement stated:

“I confirm that I was not aware that the Registrant had been charged with driving under the influence of alcohol prior to January 2023. I had not spoken on the phone to the registrant between 13 December 2022 and 26 January 2023. The only communication we had between that period was via text and email messages in an attempt to offer her support.”

The panel noted that Witness 1 confirmed this in the fact-finding exercise in which she stated:

“[PRIVATE].”

The panel had sight of the MG4 charge sheet which confirmed that Mss Taylor had been charged on 13 December 2022 and had signed the document.

The panel was of the view that Miss Taylor had a responsibility to disclose this information to her employer and had had ample opportunity to disclose that she had been arrested and charged with driving under the influence of excess alcohol. However, she had failed to do so despite being in correspondence with her employer via email and text following the confirmation of the charge she was facing. The panel considered that this period of time lasted for over six weeks, and was sufficient for it to conclude that she had failed in her obligation under the Code to be open and honest with her employer regarding the charge.

The panel was satisfied on the balance of probabilities, that Miss Taylor failed to disclose that she was charged with the offence set out in charge 1 above to her employer between 13 December 2022 and 25 January 2023 and therefore finds this charge proved.

Charge 4

“Your actions at charge 3 lacked integrity in that you failed to inform your employer in a timely manner that you had been charged with a criminal offence.”

This charge is found proved.

In reaching this decision, the panel took into account the NMC Code of Conduct (paragraph 23.2) and the witness statement of Witness 1.

Witness 1 in her written statement stated:

“The first time I was informed of the incident on 13 December 2022 and that the registrant was charged with the offence of drink-driving was when I spoke with the registrant on 26th January 2023. [PRIVATE].

I confirm that I was not aware that the Registrant had been charged with driving under the influence of alcohol prior to January 2023. I had not spoken on the phone to the registrant between 13 December 2022 and 26 January 2023. The only

communication we had between that period was via text and email messages in an attempt to offer her support.”

The panel took account of the NMC Code which requires that health and care professionals must be open and honest with their colleagues, employers and relevant organisations. It further states that nurses must also be open and honest with their regulators, raising concerns where appropriate.

The panel was of the view that Miss Taylor was not open and honest with her employer once she became aware of the criminal charge and this demonstrated a lack of integrity. The panel was satisfied that Miss Taylor failing to inform her employer that she had been charged with a criminal offence was in breach of the Code.

The panel therefore had sufficient evidence which supports that Miss Taylor's actions at charge 3 lacked integrity and therefore finds this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved at charge 2, 3 and 4 amount to misconduct and, if so, whether Miss Taylor's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to 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.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved in charge 2, 3 and 4 amount to misconduct. Secondly, the panel must decide whether, in all the circumstances, Miss Taylor's fitness to practise is currently impaired as a result of that misconduct and the fact of her conviction.

Representations on misconduct and impairment

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

Having reached its finding on all the facts, the panel then moved on to consider whether Miss Taylor’s fitness to practise was impaired.

The panel took into account the NMC’s written representations on misconduct and impairment, which states:

Misconduct

*‘14. The comments of Lord Clyde in *Roylance v General Medical Council* [1999] UKPC 16 may provide some assistance when seeking to define misconduct:*

‘[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances’.

*15. As may the comments of Jackson J in *Calhaem v GMC* [2007] EWHC 2606 (Admin) and Collins J in *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), respectively. ‘[Misconduct] connotes a serious breach which indicates that the doctor’s (nurse’s) fitness to practise is impaired’. And ‘The adjective “serious” must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner’.*

*16. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per *Roylance*) can be determined by having reference to the Nursing and Midwifery Council’s Code of Conduct. Whilst breaches of the Code will not be conclusive as to the issue of misconduct, these are basic and fundamental requirements for the nursing profession. The NMC Code*

17. At the relevant time, Mrs Taylor was subject to the provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2018) ('the Code'). The Code divides its guidance for nurses in to four categories which can be considered as representative of the fundamental principles of nursing care.

These are:

- a) Prioritise people;
- b) Practice effectively;
- c) Preserve safety; and
- d) Promote professionalism and trust.

18. It is submitted, that the following parts of the Code have been breached in this case:

20 Uphold the reputation of your profession at all times

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

20.2 act with...integrity at all times

20.4 keep to the laws of the country in which you are practicing

20.8 act as a role model of professional behaviour for students and newly qualified nurses and midwives to aspire to.

19. It is submitted that Mrs Taylor's conduct as detailed in the charges laid out at paragraph 2 above have fallen far short of what is and would have been expected of a registered professional. Her conduct would be seen as deplorable by her fellow practitioners and would damage the trust that the public places in the profession.

Impairment

20. The NMC submit that Mrs Taylor's fitness to practice is impaired by reason of her conviction and her misconduct on both public interest and public protection grounds.

21. The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help

decide whether a professional's fitness to practise is impaired is: "Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

22. If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.

23. Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment. Impairment needs to be considered as at today's date, i.e. whether Mrs Taylor's fitness to practice is currently impaired.

24. The questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive.

25. Do our findings of fact in respect of the [registrant's] misconduct, deficient professional performance, adverse health, conviction, caution or determination show that their fitness to practise is impaired in the sense that she:

- i. has [Mrs Taylor] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- ii. has [Mrs Taylor] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- iii. has [Mrs Taylor] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
- iv. has [Mrs Taylor] in the past acted dishonestly and/or is liable to act dishonestly in the future*

26. The NMC submit that limbs a, b and c above are engaged.

27. Mrs Taylor was liable to put patients at unwarranted risk of harm if she had attended work on 13 December 2022. Whilst she was arrested and breathalysed, she was found to be significantly over the legal drinking limit. If she had attended work, she would have posed a risk to those patients in her care. Whilst no harm

was caused to any pedestrian, road users or patients, Mrs Taylor's actions placed people at unwarranted risk of harm.

28. Mrs Taylor's misconduct and conviction has brought the nursing profession into disrepute. The public would be concerned to hear that a nurse was convicted of driving under the influence of alcohol whilst on her way to attend a shift and had failed to inform her employer of her arrest and charge for drink driving.

29. The public has the right to expect high standards of registered professionals. The seriousness of the Mrs Taylor's actions is such that it calls into question her professionalism in the workplace, as even though the offence did not occur whilst at work, she intended to work when she was heavily intoxicated and would have been unfit to work, therefore putting patients at risk of harm. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

30. Nurses are expected to act with care, professionalism, integrity and promote trust. Mrs Taylor has breached fundamental tenets of the profession. The NMC has set out above the relevant sections of the Code we consider have been breached in this case and which we consider show that Mrs Taylor has breached the fundamental tenets of the profession.

31. Mrs Taylor is charged with failing to disclose that she was charged with the offence set out in charge 1 above to her employer. Whilst the NMC say she was not dishonest, her actions lacked integrity in that she failed to inform her employer in a timely manner.

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

- i. whether the concerns are easily remediable;*
- ii. whether they have in fact been remedied; and*

iii. *whether they are highly unlikely to be repeated.*

33. *The NMC have considered their guidance “Can the concern be addressed?” FTP-14a. The NMC considers there is a continuing risk to the public, which is a difficult element to remediate. We also consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior [SIC]. There is a significant departure from the standards expected of a registered nurse. Mrs Taylor’s behaviour raises fundamental concerns about her attitude as a registered professional.*

34. *The NMC have considered their guidance “has the concern been addressed?” FTP-14b. Mrs Taylor self-referred herself to the NMC and entered a guilty plea to the charges in court. Whilst she has outlined the steps she has taken since the incident to address the concerns and that she investigated courses and reflected on events, as well as taking a break to strengthen herself, the NMC submit that no meaningful reflection has been provided. She has not recognised the risk of her actions, the damage to public confidence in the profession, and how far her conduct fell short of professional standards.*

35. *The NMC have considered their guidance “is it highly unlikely that the conduct will be repeated?” FTP-14c. The NMC considers there is a risk of the conduct being repeated. As mentioned, Mrs Taylor has shown some insight into her actions. Therefore, there is a continuing risk to the public due to Mrs Taylor’s conduct.*

36. *Mrs Taylor’s actions failings fall seriously below the standards expected of a nurse, therefore remains a risk to the health, safety or wellbeing of the public. Mrs Taylor would pose a significant and current risk to the public if no restriction were imposed in respect of her practice. The NMC submits Mrs Taylor is currently impaired by reason of her conviction on public protection grounds.*

37. *Consideration of public interest requires the panel to decide whether a finding of impairment is needed to uphold professional standards and conduct and/or to maintain public confidence in the profession.*

38. *In this case, the NMC submits that the concerns clearly constitute matters so serious that a finding of impairment is required to uphold professional standards. Furthermore, a finding of impairment on public interest is not made, it is submitted that this would undermine public confidence and trust in the regulatory process and the NMC as a regulatory process and the NMC as a regulator.*

39. *The conviction and subsequent action of not disclosing the charge are serious. The NMC consider that Mrs Taylor's fitness to practise is impaired on public interest grounds.'*

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council*_(No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

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

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 Keep to and uphold the standards and values set out in the Code

20.2 Act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

20.4 Keep to the laws of the country in which you are practising

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

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

Charges 2, 3 and 4

The panel considered that by driving and attempting to attend work whilst significantly over the drink drive limit of alcohol, Miss Taylor had not only put other road users at risk, but she could have put patients at risk of harm had she had attempted to treat them while under the influence of alcohol. It found this to be seriously below standards of behaviour expected from a registered nurse. In addition, it concluded that Miss Taylor's failure to inform her employer in a timely manner of the charges against her was also serious. Openness and honesty are fundamental tenets of the nursing profession. The panel found that Miss Taylor's failure to disclose was further aggravated by the fact that she was a nurse working in alcohol and substance misuse and therefore should have been even more aware of her responsibilities in this context.

The panel therefore found Miss Taylor's actions to be so serious as to amount to misconduct. The panel was of the view that Miss Taylor's conduct had fallen far short of what is and would have been expected of a registered professional and that her conduct would be seen as deplorable by her fellow practitioners and would damage the trust that the public places in the profession.

The panel determined that Miss Taylor's actions collectively did fall seriously short of the conduct and standards expected of a nurse and therefore amount to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Taylor's 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 honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d)'*

The panel had regard to this test and found limbs a, b and c were engaged.

The panel did not have any evidence before it to suggest that Miss Taylor has demonstrated sufficient insight into her misconduct and conviction. Miss Taylor has failed to engage with the NMC since the interim order hearing on 8 February 2023, nearly two years ago. The panel noted that there was no information from Miss Taylor to demonstrate her understanding of her misconduct and conviction or any suggestion from her about how she would act differently should a similar situation arise in the future. Further, the panel had no information before it to evidence Miss Taylor's understanding of how her actions have affected her role as a nurse and the reputation of the nursing profession in general. It is therefore not guaranteed that a member of the public in Miss Taylor's care would be safe, or indeed, feel safe, in her care. The panel therefore determined that, in the absence of any up-to-date information from Miss Taylor or evidence of the necessary reflection and insight into her misconduct, she is liable to place patients at a risk of harm in the future. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel went onto consider the question of public interest. It determined that Miss Taylor's conduct which led to a conviction is such that it would be difficult, although not impossible, to remedy and falls so far short of the standards the public expect of professionals caring for them that public confidence in the nursing and midwifery professions could be undermined if a finding of impairment was not made. Should such conduct be repeated, there is a risk of further damage to the reputation of the profession.

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 therefore concluded that public confidence in the profession would be seriously undermined if a finding of impairment were not made in this case and therefore also finds Miss Taylor's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Taylor's 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 12 months with a review. The effect of this order is that the NMC register will show that Miss Taylor's registration has been suspended.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC.

The panel accepted the advice of the legal assessor.

Representations on sanction

The NMC made the following representations in relation to sanction:

'Sanction

40. The NMC consider that a suspension order is the proportionate sanction.

41. With regard to the NMC's sanctions guidance the following aspects have led to this conclusion:

42. The aggravating features in this case include: a. Whilst intoxicated, intending to attend a night shift which would potentially put patients at risk of harm [SIC].

[PRIVATE]

44. Taking the least serious sanctions first, it is submitted that taking no action or imposing a caution order would not be appropriate in this case. The NMC Sanctions Guidance ("the Guidance") states that taking no action will be rare at the sanction stage and this would not be suitable where the nurse presents a continuing risk to patients. In this case, the seriousness of the convictions means that taking no action would not be appropriate. A caution order would also not be appropriate as

this would not mark the seriousness of the concerns and the case is not at the lower end of the spectrum of impaired fitness to practise. Additionally, neither sanction would restrict Mrs Taylor from practising.

Conditions of Practice order

45. The Guidance (SAN-3c) says that a conditions of practice order is appropriate when the concerns can easily be remediated and when conditions can be put in place that will be sufficient to protect the public and address the areas of concern to uphold public confidence. In this case, a conditions of practice order would not be sufficient to protect the public and would not be in the public interest. The charges do not relate to Mrs Taylor's clinical practice. There are no conditions which can be formulated to address the concerns in this case. A conditions of practice order would not be sufficient to mark the seriousness of the concerns.

Suspension Order

46. According to the Guidance (SAN-d3), the Regulatory concerns are sufficiently serious to warrant a temporary removal from the Register. A Suspension Order would be proportionate in this matter. There is no evidence of deep seated attitudinal problems when analysing Mrs Taylor's actions. The Guidance states that a suspension order may be appropriate where some of the following factors apply:

- a single instance of misconduct but where a lesser sanction is not sufficient*
- no evidence of repetition of behaviour since the incident*
- no evidence of harmful deep-seated personality or attitudinal problems*
- nurse does not pose a significant risk of repeating behaviour*

47. Mrs Taylor made an egregious and unacceptable error but, public confidence can be maintained if she is not permanently removed from the register. There is no evidence of repetition since the incident. Taking into account the nature and seriousness of the conduct, temporary suspension from the register would be sufficient to protect patients, public confidence in nurses, the NMC as its regulator and professional standards.

Striking- off Order

48. It is submitted that Mrs Taylor's conduct is not fundamentally incompatible with ongoing registration. As such, the NMC considers that a striking-off order is inappropriate in the circumstances of this case.

49. For the above reasons we invite the panel to make a Suspension Order with a Review.'

Decision and reasons on sanction

Having found Miss Taylor'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:

- Lack of engagement since February 2023
- Lack of insight
- Miss Taylor's behaviour put patients and the wider public at risk

The panel also took into account the following mitigating features:

- [PRIVATE]

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Taylor's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.*' The panel considered that Miss Taylor's 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 Miss Taylor's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. Whilst there are some aspects of Miss Taylor's case which are capable of remediation, namely in relation to her misconduct, the panel had not received indication that Miss Taylor would be willing to engage with any conditions which might be formulated. Furthermore, the nature of the conviction and associated misconduct did not easily lend itself to workplace conditions of practice. The panel was mindful that there had been no clinical concern raised about Miss Taylor's nursing practice, which made this a case where a conditions of practice order was not appropriate. In any event, the panel determined that the placing of conditions on Miss Taylor's registration would not adequately address the seriousness of this case and would not protect the public nor address the public interest concerns identified.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG suggests that a suspension order may be suitable where certain factors are present. The panel has taken account of all of the circumstances surrounding the case and considered the factors as set out in the SG in respect of a suspension order.

The panel has considered that the conviction related to a single incident, but one that is serious enough that a lesser sanction would not be sufficient to maintain public confidence in the nursing profession. The panel gave very careful consideration to the delay in Miss Taylor communicating the fact that she had been charged to her employer. While it was true that Miss Taylor failed to disclose the charges to her employer for over six weeks, the panel was of the view that this all related to a single and apparently isolated event. It had no evidence before it that Miss Taylor had driven under the influence of excess alcohol either before or since 13 December 2022.

The panel took careful account of the statement made by Dr 1, who confirmed that there had been no previous clinical concern about Miss Taylor's practice, stating that *"during Heather's employment no concerns have been raised about her professional conduct or practice, fitness to practice or appearing under the influence of alcohol at work"*.

The panel gave serious consideration to a striking off order, due to Miss Taylor's lack of engagement with the regulatory process and the aggravation of the original offence through the failure to make a timely disclosure to the employer, but it ultimately concluded

that the misconduct and conviction were not fundamentally incompatible with remaining on the register. It could also not be satisfied that the behaviour was indicative of a deep-seated attitudinal issue that was impossible to remedy. It was mindful that Miss Taylor had made oral submissions at the interim order hearing in February 2023 that indicated that there may be some mitigating circumstances surrounding the conviction, although it had not had direct sight of any documentation in relation to this. The panel considered that, should Miss Taylor complete the necessary reflection and develop good insight into her conviction and misconduct, it might be possible for her to return to unrestricted practice. It considered that a suspension order for 12 months would give her sufficient time and opportunity to decide whether this is something that she wished to attempt.

Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Taylor's case to impose a striking-off order at this time.

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

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

The panel concluded that, in this case, a suspension order for a period of 12 months is sufficient to address the gravity of the conviction while allowing future reintegration into the nursing profession. The panel was of the view that the seriousness of the case does warrant temporary removal from the register, but for a period that is proportionate to the circumstances and allows for a fair opportunity for remediation and the opportunity to engage with the NMC. The panel concluded that the imposition of a suspension order for a period of 12 months balances the public interest requirements with Miss Taylor's right to continue practising in the future. The panel is satisfied that a 12 month suspension with a review will allow time for further reflection, engagement with rehabilitation, and assurance that Miss Taylor has made sufficient progress to return to practice.

The panel noted the hardship such an order will inevitably cause Miss Taylor but concluded that this was outweighed by the public interest in maintaining professional

standards and public confidence in the nursing profession. The panel determined that a suspension order for a period of 12 months with a review was appropriate to reflect the seriousness of the misconduct and conviction.

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:

- Miss Taylor's attendance and engagement with the regulatory process;
- A thorough and detailed reflective statement reflecting on Miss Taylor's insight into her misconduct and conviction, its impact on her profession and the wider public and what she would do differently in the future;
- Testimonials relating to Miss Taylor's integrity from either paid or unpaid work in the last three years;
- An attendance certificate for drink drive and rehabilitation course; and
- Evidence of any recent clinical or [PRIVATE] related training.

This will be confirmed to Miss Taylor in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Taylor's own interests until the suspension sanction takes effect.

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

Representations on interim order

The NMC made the following representations in relation to interim order:

Interim Order Consideration

50. If a finding is made that Mrs Taylor's fitness to practise is impaired on a public protection basis and a restrictive sanction imposed, we consider an order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow sufficient time for any appeal to be heard. The panel is satisfied that such an order is appropriate and proportionate in the circumstances of this case.

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

That concludes this determination.