

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

**Substantive Meeting
Thursday, 13 March 2025**

Virtual Meeting

Name of Registrant: Shannon Axon

NMC PIN 22F1837E

Part(s) of the register: Registered Nurse – Sub part 1
Mental Health Nursing (Level 1) – 31 August
2022

Relevant Location: Cheshire

Type of case: Conviction

Panel members: Graham Gardner (Chair, lay member)
Mary Karasu (Registrant member)
Paul Hepworth (Lay member)

Legal Assessor: Guy Bowden

Hearings Coordinator: Stanley Udealor

Facts proved: Charges 1a, 1b, 1c, 1d and 1e

Facts not proved: N/A

Fitness to practise: Impaired

Sanction: **Caution order (5 years)**

Interim order: N/A

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 Ms Axon's registered email address by secure email on 9 January 2025.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting would be heard virtually.

In the light of all of the information available, the panel was satisfied that Ms Axon 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).

Details of charge

That you, a registered nurse

- 1) On 8 March 2023, were convicted at Cheshire Magistrates Court of:
 - a) Drive motor vehicle when alcohol level above limit, contrary to section 5(1)(a) of the Road Traffic Act 1988
 - b) Cause serious injury by careless / inconsiderate driving, contrary to section 2C of the Road Traffic Act 1988
 - c) Cause serious injury by careless / inconsiderate driving, contrary to section 2C of the Road Traffic Act 1988
 - d) Drive a motor vehicle otherwise than in accordance with a licence, contrary to 87(1) of the Road Traffic Act 1988
 - e) Use a motor vehicle on a road/ public place without third party insurance, contrary to s143(2) of the Road Traffic Act 1988

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

Background

The charges arose whilst Ms Axon was employed as a mental health nurse by Elysium Healthcare (the Trust). On 17 March 2023, the NMC received a self-referral from Ms Axon concerning her fitness to practise. The referral related to an incident that occurred on 12 November 2022. On that day, Ms Axon was returning from a rugby presentation in the evening and had consumed several alcoholic drinks. Whilst driving home, Ms Axon states she dropped her e-cigarette and mounted the kerb as she leaned down to pick it up. This led to her hitting a man and a woman with her car, causing serious injury to the two pedestrians.

On 8 March 2023, Ms Axon entered a guilty plea at Warrington Magistrates' Court for the following:

- a. Driving a motor vehicle when alcohol level above limit
- b. Causing serious injury by careless/inconsiderate driving
- c. Using vehicle while uninsured
- d. Driving otherwise than in accordance with a licence

Ms Axon was sentenced to a sixteen-week term of imprisonment and received a twenty-six-month driving ban. Ms Axon appealed against the sentence in respect of the two charges of causing serious injury through careless driving. The appeal hearing took place on 12 May 2023 at Liverpool Crown Court and the sentence was upheld.

Ms Axon completed a drink driving course that reduced her ban by twenty-six weeks. She was also given a fine of £158, which has been paid in full.

At the time of the incident, Ms Axon was employed at Elysium Healthcare as a Mental Health Nurse. The Manager of Elysium Healthcare confirmed they had no concerns with Ms Axon's drinking or health whatsoever. There was no link between the offence Ms Axon committed and either her health or clinical practice. Since 13 November 2023, Ms Axon has been employed by MerseyCare NHS as Deputy Ward Manager on a male acute Ward.

Decision and reasons on facts

The charges arose from Ms Axon's conviction and having been provided with a copy of the certificate of conviction, the panel finds that charges 1a, 1b, 1c, 1d and 1e are found proved in accordance with Rule 31 (2) and (3). This states:

- '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.'*

The panel also considered the self-referral dated 17 March 2023 and the completed Case Management Form dated 16 October 2024, and that Ms Axon has made full admissions to charges 1a, 1b, 1c, 1d and 1e.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Ms Axon's fitness to practise is currently impaired by reason of her conviction.

Representations on impairment

The NMC provided written representations on impairment to the panel. In its written representations, the NMC submitted that Ms Axon's conduct raises fundamental concerns about her ability to uphold the standards and values of The Code: Professional standards

of practice and behaviour for nurses and midwives 2018' ("the Code"), specifically: 20.1, 20.4 and 20.8.

The NMC invited the panel to consider the test formulated By Dame Janet Smith in the *Fifth Shipman Report*, quoted in the case of *CHRE v NMC and Grant* [2011] EWHC 927 (Admin). It submitted that limbs b and c of the *Grant* test were engaged in this case.

In relation to limb b, the NMC submitted that the circumstances of the convictions and the convictions themselves have brought the nursing profession into disrepute. Nurses are expected to uphold the reputation of their profession at all times. They must keep to and uphold the standards and values set out in the Code (Code 20.1), keep to the laws of the country in which they are practising (Code 20.4) and act as a role model of professional behaviour for students and newly qualified nurses (Code 20.8). The public would be extremely concerned to hear that a nurse drove a vehicle whilst over the alcohol legal limit. Then she ran over two pedestrians causing serious injuries and also did not have a valid driving licence or insurance.

The NMC submitted that the public has the right to expect high standards of registered professionals. The seriousness of the conviction demonstrated by the custodial sentence and disqualification from driving imposed, are such that they have a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

In respect of limb c, the NMC submitted that nurses are expected to promote professionalism and trust. The conviction shows a lack of these elements to the profession. By becoming involved in criminal activity of the kind for which Ms Axon was convicted, she has breached the fundamental tenets of the profession.

The NMC further referred the panel to the test on impairment set out in the case of *Cohen v GMC* [2008] EWHC 581 (Admin).

In relation to whether the concerns are easily remediable, the NMC referred the panel to its Guidance – Can the concern be addressed (FTP-15a). It highlighted that examples of conduct which may not be possible to address, and where steps such as training courses

or supervision at work are unlikely to address the concerns include, criminal conviction for specific offences or conviction that led to custodial sentences. The NMC submitted that although this was a one-off incident and her previous employers reported no concerns in relation to her clinical practice or health, the NMC still has regard to the seriousness of her conviction that results in such a significant custodial sentence. Therefore, there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. Ms Axon's conduct is a significant departure from the standards expected of a registered nurse.

With regard to whether the concerns have in fact been remedied, the NMC referred the panel to its Guidance – Has the concern been addressed (FTP-15b). The NMC highlighted that Ms Axon pleaded guilty to the charges, self-referred to the NMC and also accepted all the charges in the Case Management Form ("CMF") dated 16 October 2024. She has provided a thorough insight and reflection into her actions in her CMF response form dated 16 October 2024.

The NMC submitted that even though Ms Axon has shown insight and remorse into her actions, the NMC Guidance on Impairment (DMA-1) makes it clear that there are types of concerns that are so serious that, even if the professional addressed the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or maintain public confidence in the profession. One of the examples given is a sentence of imprisonment. In this case, there might not be a risk of future harm to people receiving care, but a finding of impairment is still required in the public interest to mark the profound seriousness of the conduct which has taken place.

With regard to whether the concerns are highly unlikely to be repeated, the NMC referred the panel to its Guidance – Is it highly unlikely that the conduct will be repeated (FTP-15c). The NMC considers that the risk of the conduct being repeated is low as Ms Axon has shown some insight and remorse into her actions. However, it should still be noted that the conviction was so serious that a custodial sentence was considered proportionate.

The NMC submitted that although Ms Axon's actions fall below the standards expected of a nurse, there is no continued risk to the health, safety or wellbeing of the public. Ms Axon's actions resulted in serious harm to two members of the public amounting to a

serious departure from the NMC's professional standards. However, there are no public protection concerns as it would appear to have been a one-off incident. There is no evidence of deep-seated personality or attitudinal issues in that she is unlikely to be involved in similar incidents. Ms Axon was of good character before this incident and has not had any Fitness to Practise concerns raised about her previously. The conduct was, on the evidence, out of character. She has shown insight and remorse where she acknowledged that she should not have driven under the influence of alcohol and she stated that she will never do something like this again. Ms Axon has now served her main custodial sentence and has stated that she would be getting her licence back on 5 November 2024. A finding of impairment is therefore not required for the protection of the public.

The NMC submitted that a finding of impairment on public interest grounds is required to declare and uphold proper standards and to maintain confidence in the profession and the NMC as a regulator. If no such finding of impairment is made, this is likely to undermine confidence in the profession. Ms Axon's conduct engages the public interest because she failed to keep to the laws of the country in which she is practising, by firstly driving a vehicle when she was over the alcohol limit, and then running over two pedestrians and causing them serious long-term injuries. In addition, her driving licence was invalid, and she was uninsured. Consequently, Ms Axon failed to keep to and uphold the standards and values set out in the Code. She has also not acted as a role model of professional behaviour for students and newly qualified nurses. The NMC therefore invited the panel to find that Ms Axon's fitness to practise is impaired on grounds of public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin), *Cohen v GMC* and *CHRE v NMC and Grant*.

Decision and reasons on impairment

Registered 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.

The panel had regard to the NMC Guidance on Impairment (DMA-1), especially the question which states:

'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

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) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

The panel first considered whether any of the limbs of the Grant test were engaged. The panel took into account that the convicted offences were not related to Ms Axon's clinical practice and had occurred outside her working hours. It also noted that the offences were not related to Ms Axon's honesty. In this regard, the panel determined that limbs a and d were not engaged in this case.

Nevertheless, the panel considered the serious nature of the offences committed by Ms Axon's subsequent conviction and custodial sentence. The panel bore in mind that nurses are expected to uphold the reputation of their profession at all times and to obey the laws of the country in which they are practising. The panel therefore determined that Ms Axon's offences and her subsequent conviction brought the nursing profession into disrepute.

The panel further determined that Ms Axon's conduct constituted a serious breach of the fundamental tenets of the nursing profession as she failed to uphold the standards and values of the nursing profession. It was of the view that Ms Axon's 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

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

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

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

The panel therefore concluded that limbs b and c of the Grant test were engaged in this case.

The panel next considered whether the limbs of the *Grant* test are engaged in the future. In this regard, the panel considered the case of *Cohen v GMC* where the court addressed the issue of impairment with regard to the following three considerations:

- a. *'Is the conduct that led to the charge easily remediable?'*
- b. *'Has it in fact been remedied?'*
- c. *'Is it highly unlikely to be repeated?'*

In this regard, the panel also considered the factors set out in the NMC guidance on insight and strengthened practice (FTP-15).

The panel first considered whether the concerns are capable of being addressed. Given the serious nature of the convicted offences and their attitudinal nature, the panel was of the view that the concerns are difficult to remediate.

The panel then went on to consider whether the concerns had been addressed by Ms Axon. It had regard to the NMC Guidance – Has the concern been addressed (FTP-15b). Regarding insight, the panel took account of Ms Axon's reflective statement. The panel noted that Ms Axon had demonstrated genuine remorse and insight into her conduct including the impact of her actions on the victims, the nursing profession and the general public. The panel took into consideration that Ms Axon had made full admissions from the outset in her self-referral to the NMC and at her criminal trial. She had apologised for her actions and had provided detailed steps she would take to prevent such situation from occurring in the future. The panel therefore determined that Ms Axon has demonstrated considerable insight into her conduct.

In considering whether Ms Axon had taken any step to remediate her conduct, the panel took into account that she has served her custodial sentence and she has completed drink driving rehabilitation course. The panel took account of the various character references

made on her behalf including the email from the Trust dated 4 April 2023 and the letter from the Probation Practitioner dated 26 September 2023.

Consequently, the panel determined that Ms Axon had made considerable progress in addressing the concerns and therefore, there is a low risk of repetition. In light of this, the panel concluded that Ms Axon does not pose a risk of harm to the public and that a finding of impairment is not necessary on the ground of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold 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 noted that the NMC Guidance on Impairment (DMA-1) provides that there are types of concerns that are so serious that, even if the professional addressed the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or maintain public confidence in the profession. An example is such conduct which has led to a conviction for a specified offence or a sentence of imprisonment.

The panel had regard to the serious nature of Ms Axon's conviction as well as her custodial sentence. The panel determined that public confidence in the profession would be undermined if a finding of impairment were not made in this case. For these reasons, the panel determined that a finding of current impairment on public interest grounds is required. It decided that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that Ms Axon's fitness to practise is currently impaired on public interest grounds.

Sanction

The panel considered this case very carefully and decided to make a caution order for a period of five years. The effect of this order is that Ms Axon's name 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.

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.

Representations on sanction

The NMC provided written representations on sanction to the panel. In its written representations, the NMC invited the panel to impose a caution order for a period of five years. It submitted that the aggravating factors in this case include:

- Ms Axon knowingly drove a car whilst under the influence of alcohol.
- She did not have a valid licence and was uninsured.
- Ms Axon's action resulted in serious injury of two members of the public including physical as well as emotional harm.
- Her criminal conviction resulted in a custodial sentence and disqualification from driving.

The NMC submitted that the mitigating factors in this case include:

- Ms Axon's previous good character and having no regulatory or disciplinary history.
- Ms Axon's acknowledgement and understanding of how her actions fell below the standards expected of a nurse as well as insight and remorse.

In considering the appropriate sanctions to be imposed, starting from the least restrictive, the NMC submitted that taking no action would not be appropriate in this case. Ms Axon was responsible for conduct that undermined the public's trust in nurses, midwives or nursing associates and breached the Code (20.1, 20.4, 20.8). The NMC Sanctions Guidance states that taking no action will be rare at the sanction stage. In this case, the seriousness of the conviction means that taking no action would not be appropriate.

The NMC submitted that a caution order would be appropriate in this case. It noted that although serious injuries were caused to two members of the public, it needed to be considered whether the risk is still continuing. The case of *Hadiza Bawa Garba v the GMC* [2018] EWCA Civ 1879 highlighted the importance of taking into account the full context and that it was an “*impermissible approach*” to consider:

‘that erasure should be imposed if the medical practitioner has caused serious harm to a patient through incompetence, despite there being no continuing risk to patients, unless there are sufficiently significant reasons and circumstances for a lesser sanction consistent with the maintenance of public confidence in the profession and its professional standards’ (paragraph 88).’

The NMC submitted that it is apparent in this case that the risk to the public is not still continuing as there has been no repetition of a similar incident and as the case of *Bawa Garba* has shown, a significant outcome, namely, that two members of the public suffered serious injuries does not necessarily equate to a more severe sanction. Therefore, limited weight can be placed on the harm caused. Ms Axon’s conviction is serious however she has shown insight and remorse and has served her custodial sentence and has stated that she was due to get her driving licence back on 5 November 2024. She continues to excel in her nursing career and there are no concerns linked to her clinical practice. A caution order for five years will mark the seriousness of the conviction which caused harm and would allow Ms Axon to reflect on her conduct. There are no public protection concerns in this case and there is a public interest in a competent nurse being able to continue practising. In light of the fact that there have not been any fitness to practise concerns about Ms Axon to date, the NMC considers that a caution order would be proportionate.

The NMC submitted that a conditions of practice order would not be appropriate as there are no clinical concerns that could be addressed by formulating conditions. It further submitted that a suspension order and/or a striking off order would also not be appropriate in this case. The regulatory concerns are not sufficiently serious to warrant a temporary or permanent removal from the register. There is no evidence of attitudinal problems when analysing Ms Axon’s actions and she does not pose a significant risk of repetition of this behaviour. The NMC submitted that Ms Axon’s conduct is not fundamentally incompatible

with ongoing registration. A suspension order and a striking-off order would therefore be disproportionate.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Ms Axon'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 identified the following aggravating features:

- Ms Axon's actions caused serious injuries to two members of the public.
- Ms Axon had driven her vehicle under the influence of alcohol whilst almost three times above the limit.
- Ms Axon's criminal conviction and subsequent custodial sentence.
- Ms Axon had knowingly driven her vehicle without a full driving license and insurance.

The panel also identified the following mitigating features:

- Ms Axon's early admissions including her guilty pleas and her self-referral.
- Ms Axon's genuine remorse and apology for her actions.
- Ms Axon's considerable insight into her actions.
- The concerns are not related to Ms Axon's clinical practice.
- Ms Axon had taken considerable steps to remediate her actions
- Various character references made on her behalf.
- Ms Axon's good conduct during the period of her probation.
- Her previous good character and current work as a mental health professional.
- Ms Axon's mitigating personal circumstances.

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 took into consideration that Ms Axon’s actions were very serious, had caused serious injuries to two members of the public and had brought the nursing profession into disrepute. However, the panel took into account that Ms Axon had reflected on the incidents and shown considerable insight into her actions. It noted that Ms Axon had made full admissions, apologised for her actions and demonstrated evidence of genuine remorse. She had further taken considerable steps to address the concerns and had served her custodial sentence. The panel considered that it was an isolated incident, there is a low risk of repetition, it was not connected to her clinical practice and therefore, Ms Axon does not pose a risk of harm to the public.

Therefore, in the panel’s judgement, this is a case which is at the lower end of the spectrum of impaired fitness to practise.

The panel considered whether it would be proportionate to impose a conditions of practice order. The panel noted that the concerns did not relate to Ms Axon’s clinical practice and that she has been practising as a registered nurse without any concerns raised about her nursing practice. It further noted that there were no concerns about any underlying alcohol problem. The panel therefore concluded that no useful purpose would be served by a conditions of practice order and it would not serve the public interest considerations in this case.

Having considered the general principles above and looking at the totality of the findings on the evidence, the panel determined that to impose a caution order for a period of five 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.

For the next five years, Ms Axon's employer - or any prospective employer - will be on notice that her fitness to practise had been found to be impaired and that her nursing practice is subject to this sanction.

At the end of this period the note on Ms Axon'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 Ms Axon'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 will be confirmed to Ms Axon in writing.

That concludes this determination.