

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

**Substantive Meeting
Wednesday, 24 September 2025**

Virtual Meeting

Name of Registrant:	Grace Cunningham
NMC PIN:	18A2888E
Part(s) of the register:	RNA: Registered Nurse – (sub part 1) Adult – Level 1 30 August 2018
Relevant Location:	South Tyneside
Type of case:	Conviction
Panel members:	Maragret Wolff (Chair, lay member) Vivienne Cooper - Thorne (Registrant member) Colleen Sterling (Lay member)
Legal Assessor:	Richard Tyson
Hearings Coordinator:	Adaobi Ibuaka
Facts proved:	Charge 1 in its entirety
Fitness to practise:	Impaired
Sanction:	Suspension order (9 months)
Interim order:	Interim suspension order (9 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 Ms Cunningham's registered email address by secure email on 21 August 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 was heard virtually.

In the light of all of the information available, the panel was satisfied that Ms Cunningham 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 30 August 2023 at South Shields Magistrates' Court, you were convicted of:
 - a. Driving a motor vehicle on a road after consuming so much alcohol that the proportion of it in your breath exceeded the prescribed limit on 13 August 2023, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.
 - b. Assault by beating of an emergency worker, namely Police Constable 1 on 13 August 2023 contrary to section 1 of the Assaults on Emergency Workers (Offences) Act 2018.

- c. Assault by beating of an emergency worker, namely Police Constable 2 on 13 August 2023 contrary to section 1 of the Assaults on Emergency Workers (Offences) Act 2018.

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

Background

The charges arose whilst Ms Cunningham was employed as a registered nurse by South Tyneside and Sunderland NHS Foundation Trust (the Trust).

On 13 August 2023, Ms Cunningham was stopped by the police whilst driving her motor vehicle. It is alleged that Ms Cunningham was speeding. The police performed a roadside breath test to which she failed due to being intoxicated. Ms Cunningham provided a reading of 103 microgrammes of alcohol in 100 millilitres of breath, the lowest reading was 84. The legal limit is 35 microgrammes of alcohol in 100 millilitres of breath and the police arrested Ms Cunningham for the offence of Driving with Excess Alcohol.

On arrest Ms Cunningham became verbally abusive towards the police officers and it is alleged that she pushed an officer and kicked another to the thigh. Her aggressive behaviour resulted in further officers being called to the scene. Ms Cunningham was subsequently charged with the offences of obstruct/resist the police officer in execution of duty and driving a motor vehicle when above the alcohol limit.

On 30 August 2023, Ms Cunningham appeared before South Shields Magistrates' Court. On that occasion the offence of obstruct/resist a police officer was withdrawn and Ms Cunningham was charged with two counts of assaulting an emergency worker in the alternative. Ms Cunningham pleaded guilty to all offences and was convicted of driving a motor vehicle with alcohol above the prescribed limit and two counts of assaulting an emergency worker.

Ms Cunningham was sentenced to a Community Order for a period of 12 months with a requirement to complete 20 Rehabilitation Activity Days. She was further disqualified from

driving for 40 months, to be reduced by 40 weeks should she complete the drink drive awareness course and ordered to pay the statutory victim surcharge.

Ms Cunningham self-referred to the NMC on 24 May 2024.

Decision and reasons on facts

The charges concern Ms Cunningham's conviction and, having been provided with a copy of the memorandum of conviction, 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.'*

Fitness to practise

Having made its decisions on the facts, the panel then considered whether, on the basis of the facts found proved, Ms Cunningham's fitness to practise is currently impaired by reason of her conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as the ability to practise kindly, safely and professionally.

Representations on impairment

The NMC in written representation submitted that Ms Cunningham is impaired by reason of her conviction. The NMC made reference to *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927(Admin), the Grant test, stating that in this case limbs b and c are engaged.

The NMC submitted that Ms Cunningham's conviction has brought the profession into disrepute and has breached fundamental tenets of the NMC Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (the Code), namely paragraphs; 20.1, 20.2, 20.3, 20.4 20.8.

The NMC submitted that the concerns in this case are serious as Ms Cunningham has been convicted of driving a motor vehicle on a road after consuming excess alcohol in addition to assault by beating of two emergency workers. The NMC further submitted that that the serious nature of this conviction is capable of undermining the public trust and confidence in the profession and raises fundamental questions about Ms Cunningham's ability to uphold the standards and values set out in the Code.

The NMC submitted that it considered Ms Cunningham's conduct suggested there is a potential attitudinal concern which is harder to remediate. The NMC further submitted that Ms Cunningham has demonstrated insufficient insight into her underlying behaviour. The NMC submitted that Ms Cunningham has not demonstrated an understanding of the risks her actions have caused to the health and safety of herself and other road users by driving whilst unfit to do so through drink. Further she had not demonstrated an understanding of the risks to the public confidence in the profession by her actions. Additionally, Ms Cunningham has not demonstrated sufficient insight into her assault of the emergency workers and the impact that this may have had upon them. There is no evidence of steps to address the conduct which decreases the risk of repetition. It considered that that the risk of repetition remains.

The NMC further submitted that a finding of impairment on public protection grounds is not necessary in this case as Ms Cunningham conviction does not involve her clinical practice. However, the NMC submitted that a finding of impairment on public interest grounds is

necessary to uphold proper standards of conduct and behaviour, and to maintain public confidence in the profession and the NMC as its regulator. The NMC further submitted that a failure to find impairment on public interest grounds would send the wrong message to the profession and the public.

The panel also had sight of written reflection from Ms Cunningham. It noted her account that she was remorseful and ashamed of her offending, that she had completed the requirements of her community order early, and had undertaken a three day drink driving awareness course. That reflection also contained her explanation of the events that led to her convictions.

The panel accepted the advice of the legal assessor which included reference to a number of judgments and NMC Guidance. These included: *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927(Admin).

Decision and reasons on impairment

The panel went on to decide if as a result of the conviction, Ms Cunningham's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'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?"

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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) ...
- 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 found that limbs b and c were engaged in this case. Ms Cunningham's conviction had breached the fundamental tenets of the nursing profession, particularly 20.1

and 20.4, of the Code. In addition the panel considered that 20.8 of the Code had also been breached by Ms Cunningham and therefore she had brought its reputation into disrepute.

The panel considered that the conviction was remediable, and Ms Cunningham had started to take steps towards remediation although she had not fully remediated the concerns.

In regard to Ms Cunningham's insight, the panel considered that she had expressed profound remorse for her conduct that day and apologised for the danger she had put other drivers in at the time. The panel had sight of the training Ms Cunningham had undertaken and completed to help her address the concerns, noting that Ms Cunningham had stated she wanted to get back to nursing [PRIVATE]. The panel considered that Ms Cunningham's insight was developing.

The panel noted the circumstances that led up to Ms Cunningham's recent drink driving offence [PRIVATE].

However, the panel noted that this was not the first time Ms Cunningham had been arrested for a drink driving offence and was of the view that there was a still risk of repetition based on this. [PRIVATE]. Therefore, the panel found that there was still a risk that she could be liable to repeat matters of the kind found proved.

The panel also noted that the concerns had nothing to do with Ms Cunningham's clinical practice and therefore did not pose a risk to the health, safety and wellbeing of the public. The panel therefore, decided that a finding of impairment is not necessary on the grounds 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/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that, in this case, a finding of impairment on public interest grounds was required to declare and uphold proper standards of conduct and behaviour and maintain public confidence in the profession. It considered that the public would lose confidence in the NMC as a regulator if a nurse who has displayed the behaviour that led to her convictions, was allowed to return to practise without a finding of impairment.

In coming to this conclusion that Ms Cunningham is impaired on public interest grounds, the panel took into account the NMC Guidance FTP-2c, dealing with offending outside professional practise, and considered that the underlying behaviour, the subject matter of these convictions was capable of undermining public trust and confidence in the profession.

Having regard to all of the above, the panel is satisfied that Ms Cunningham'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 9 months. The effect of this order is that the NMC register will show that MS Cunningham'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 panel noted that in the Notice of Meeting, dated 21 August 2025, the NMC had advised Ms Cunningham that it would seek the imposition of a suspension order 6-12 months with a review upon expiry if it found Ms Cunningham's fitness to practise currently impaired.

The NMC submitted that the following aggravating and mitigating factors were engaged in this case.

The aggravating factors in this case include:

- Multiple criminal convictions of a similar nature involving alcohol.
- Assaulting an emergency worker x2.
- Potential for damage to the reputation of the profession.
- A failure to demonstrate a meaningful level of insight remorse and remediation.
- Delay of nine months before notifying NMC of convictions.

The mitigating factors in this case include:

- Offending not directly linked to clinical practice.
- No clinical concerns regarding Registrant's practise.
- No previous regulatory findings.
- Some insight/responsibility- pleaded guilty at first available opportunity.

The NMC submitted that Ms Cunningham has shown some insight and pleaded guilty at the first available opportunity. The offences did not occur while she was travelling to or from work and the regulatory concern in this case relates to matters that took place outside her duties as a nurse. Nonetheless, it submitted that the circumstances of this render it sufficiently serious for a period of suspension. The NMC cited in particular:

- Issues of public trust and public confidence in the nursing profession.
- The two convictions for assaulting police officers.
- Insufficient understanding of the risks associated with drinking and driving.
- Two previous convictions for alcohol related offences.
- Lack of full insight into these factors.
- No evidence of steps taken to address the conduct to decrease the risk of repetition.
- A delay of nine months before Ms Cunningham notified the NMC of her convictions.

The NMC submitted that any other sanction other than suspension would not be appropriate nor proportionate in marking the seriousness of the concerns. There are no

concerns regarding Ms Cunningham's clinical practise, however, her conduct was a significant departure from the standards expected of a registered nurse.

Decision and reasons on sanction

Having found Ms Cunningham'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:

- Previous criminal convictions of a similar nature involving alcohol.
- Assaulting an emergency worker.
- Potential for damage to the reputation of the profession.
- Delay of nine months before notifying the NMC of the criminal proceedings where she alleged that she was subject to a caution rather than the convictions for which she was sentenced.

The panel also took into account the following mitigating features:

- Offending not directly linked to clinical practice
- No clinical concerns regarding Ms Cunningham's practice.
- No previous regulatory findings.
- Some insight/responsibility - pleaded guilty at first available opportunity.
- [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 Ms Cunningham'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 Ms Cunningham'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 Ms Cunningham's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the NMC Sanctions Guidance (SG).

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The conviction in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on Ms Cunningham's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since this incident;*

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

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledged that a suspension may have a punitive effect, it would be unduly punitive in Ms Cunningham's case to impose a striking-off order.

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

The panel noted the hardship such an order will inevitably cause Ms Cunningham. However this is outweighed by the public interest in this case.

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

The panel determined that a suspension order for a period of 9 months was appropriate in this case to mark the seriousness of the 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:

- Ms Cunningham's continued engagement and attendance at any future review hearing.
- [PRIVATE].
- [PRIVATE].
- A written reflection demonstrating that Ms Cunningham has developed an understanding of the potential risks her actions posed to herself and other road users, the impact on the emergency workers who attended the scene and the potential impact of her actions on public confidence in the profession.

This will be confirmed to Ms Cunningham 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 Ms Cunningham'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 panel took account of the representations made by the NMC that invites the panel to impose an 18 month interim suspension order on the basis that it is otherwise in the public interest and would cover any potential appeal period.

Decision and reasons on interim order

The panel was satisfied that an interim order 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 9 months due so it is consistent with the sanction and will cover any potential appeal period.

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

That concludes this determination.