Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Order Review Hearing
Monday, 15 June 2026

Virtual Hearing

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:	Linda Owen (Chair, Lay member) Aries Maximus Ogbuokiri (Registrant member) Deborah Morel (Lay member)
Legal Assessor:	Nigel Mitchell
Hearings Coordinator:	Isabella Payne
Nursing and Midwifery Council:	Represented by Safeena Rashid, Case Presenter
Miss Cunningham:	Not present and not represented at the hearing
Order being reviewed:	Suspension order (9 months)
Fitness to practise:	Impaired
Outcome:	**Suspension order (4 months) to come into effect on 23 July 2026 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that the Notice of Hearing had been sent to Miss Cunningham's registered email address by secure email on 14 May 2026.

In the light of all of the information available, the panel was satisfied that Miss Cunningham has been served with notice of this hearing 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).

The panel accepted the advice of the legal assessor.

Decision and reasons on proceeding in the absence of Miss Cunningham

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

The panel accepted the advice of the legal assessor.

During the course of its deliberations on whether to proceed in Miss Cunningham's absence, the panel was provided with an email from Miss Cunningham. In response to an enquiry as to whether she intended to attend today's hearing, Miss Cunningham replied as follows:

> *'Hi,*
>
> *No please go ahead.*
>
> *Thanks,*
>
> *Grace.'.*

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information

about Miss Cunningham's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

The panel had regard to Rule 21. It heard submissions from Ms Rashid on behalf of the Nursing and Midwifery Council (NMC), who having considered the contents of the email again requested that the hearing should proceed in the absence of Miss Cunningham.

The panel was of the view that Miss Cunningham had received communication of the hearing and had given submissions in response, as well as engaging with the NMC to confirm that she will not be attending, and is content for the hearing to proceed in her absence.

Consequently, the panel determined that it would be fair to proceed in the absence of Miss Cunningham.

Decision and reasons on review of the substantive order

The panel decided to confirm the current suspension.

This order will come into effect at the end of the current order in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of nine months by a Fitness to Practise Committee panel on 24 September 2025.

The current order is due to expire at the end of 23 July 2026.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by conviction which resulted in the imposition of the substantive order are as follows:

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. 20

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.

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

The original panel determined the following with regard to 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, 24 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 25 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 and had [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 were

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 26 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.'

The first reviewing panel determined the following with regard to sanction:

> *'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 acknowledges 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 Cunnigham 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.'*

Decision and reasons on current impairment

The panel has considered carefully whether Miss Cunningham's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as the ability of a professional on our register to practise as a nurse, midwife or nursing associate safely and effectively without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle and responses from Miss Cunningham. It has taken account of the submissions made by Ms Rashid. She submitted that there were a number of mitigating factors including that there are no other regulatory findings, no previous convictions, continued engagement with the NMC, compliance with alcohol testing and Miss Cunningham has shown some insight in her reflective piece.

Ms Rashid also invited the panel to consider that despite Miss Cunningham's compliance with the NMC, her lack of attendance today limits a full investigation and understanding of her current insight and further professional or personal development she has achieved during her suspension.

Ms Rashid also noted that Miss Cunningham has given evidence of [PRIVATE].

Ms Rashid stated that in light of Miss Cunningham's absence and the fact that there was missing information giving any further insight and evidence of personal and professional development, her fitness to practice is still impaired.

The panel also had regard to Miss Cunningham's written submissions, which shows some insight on the impact she has had on emergency services and the safety of the public. Miss Cunningham does reference further development and learning of clinical knowledge and skills but does not go into any detail about how that is being achieved.

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

In reaching its decision, the panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is required.

The panel accepted that Miss Cunningham had shown developing insight, provided through her reflective statement, and accepted that she had attempted to address

the recommendations made by the previous panel. However, the panel considered that there were still areas that required further investigation which may have been possible if Miss Cunningham had attended in person. In particular, the panel was not satisfied that there was sufficient evidence of what steps Miss Cunningham was taking [PRIVATE]. The panel could not be satisfied in the evidence before it that the behaviours that led to the imposition of the suspension order would not be repeated.

In addition, there was evidence within the bundle that Miss Cunningham was still drinking:

'[PRIVATE]'

The panel was not confident therefore that the risk of repetition had been reduced sufficiently for Miss Cunningham to practice unrestricted.

The panel therefore considered that Miss Cunningham's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Miss Cunningham's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that due to a lack of significant insight which would make repetition highly unlikely this would be inappropriate.

The panel next considered whether a conditions of practice on Miss 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 was not able to formulate conditions of practice that would adequately address the concerns relating to Miss Cunningham's conviction, due to the fact her conviction does not challenge her clinical practice but rather her ability to promote professionalism and trust.

The panel considered the imposition of a further period of suspension. It was of the view that a suspension order would allow Miss Cunningham further time to fully reflect on her previous conviction. The panel concluded that a further four month suspension order would be the appropriate and proportionate response and would afford Miss Cunningham adequate time to further develop her insight and an opportunity to provide evidence of any professional development she may have undertaken to continue to keep her clinical skills and knowledge up to date. It would also allow Miss Cunningham the opportunity to provide evidence of [PRIVATE].

This suspension order will take effect upon the expiry of the current suspension order, namely the end of 23 July 2026 in accordance with Article 30(1).

Before 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:

- Attendance at any future hearings and reviews
- Evidence of professional development, including documentary evidence of completion of any professional courses and evidence of continued development of clinical skills and knowledge
- An updated written reflective piece [PRIVATE]
- [PRIVATE]

This will be confirmed to Miss Cunningham in writing.

That concludes this determination.