Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Thursday, 07 May 2026-Friday, 08 May 2026

Virtual Meeting

Name of Registrant:	**Shauna McGarvey**
NMC PIN:	18I2685S
Part(s) of the register:	Registered Nurse – RNA Adult Nursing – September 2021
Relevant Location:	Bathgate
Type of case:	Health
Panel members:	Oluwasola Falola (Chair, Registrant member) Jason Flannigan-Salmon (Registrant member) Matthew Clarkson (Lay member)
Legal Assessor:	Graeme Sampson
Hearings Coordinator:	Sabrina Khan
Facts proved:	Charges 1 and 2a
Fitness to practise:	**Impaired**
Sanction:	**Suspension order (12 months)**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel noted that the Notice of Meeting had been sent to Ms McGarvey registered email address by secure email on 23 March 2026.

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, dates and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Ms McGarvey 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) Have or have had in the past the health condition set out in schedule 1.
2) As a consequence of your health condition set out in charge 1:
   a) On 8th November 2023, were convicted of stealing a quantity of prescription drugs on various occasions between 3 December 2021 and 11 February 2022, both dates inclusive, at the Acute Admissions Unit, Forth Valley Royal Hospital, Stirling Road, Larbert.

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

Schedule 1
[PRIVATE]

Background

The NMC received a referral from Forth Valley Royal Hospital, the Hospital on 15 February 2022 regarding Ms McGarvey. It was alleged that Ms McGarvey stole a quantity of medication from the Acute Assessment Unit (AAU) at the Hospital. The unit was in close contact with Counter Fraud team due to discrepancies in their prescription drug stock. Police arrested Ms McGarvey at the Hospital on 11 February 2022, and a search was conducted. Prescription medication was found on her person and home address.

On 8 November 2023, Ms McGarvey was convicted for the following offence: On various occasions between 3 December 2021 and 11 February 2022, both dates inclusive at the Acute Admissions Unit, Forth Valley Royal Hospital, Stirling Road, Larbert, Shauna McGarvey did steal a quantity of prescription drugs.

She received a community payback order, supervision period of 12 months, unpaid work period of 300 hours to be completed within 12 months.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the written representations made by the NMC. There was no representation made by Ms McGarvey.

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.

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 disputed charges and made the following findings.

Charge 1

'That you, a registered nurse:

1) Have or have had in the past the health condition set out in schedule 1.'

This charge is found proved.

In reaching its decision the panel had regard to the independent psychiatric reports, GP records and a UK expert report, all confirming that Ms McGarvey has health conditions classified as [PRIVATE].

These diagnoses were also consistent with Ms McGarvey's own admissions.

The panel therefore finds charge 1 proved on the balance of probabilities.

Charge 2a)

'That you, a registered nurse:

2) As a consequence of your health condition set out in charge 1:

a) On 8th November 2023, were convicted of stealing a quantity of prescription drugs on various occasions between 3 December 2021 and 11 February 2022, both dates inclusive, at the Acute Admissions Unit, Forth Valley Royal Hospital, Stirling Road, Larbert.'

This charge is found proved.

The panel had before it the certificate of conviction from the Sheriff Court confirming that on 8 November 2023 Ms McGarvey was convicted of stealing prescription-only

medicines on multiple occasions while working within AAU at Forth Valley Royal Hospital. The Police Scotland narrative corroborated the nature of the thefts and Ms McGarvey's admissions during internal interview.

The panel cannot go behind a conviction and therefore finds charge 2 proved.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Ms McGarvey's fitness to practise is currently impaired by reason of Ms McGarvey's health conditions. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession and in the NMC as a regulatory body. 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.

Representations on impairment

In reaching its decision, the panel considered all the documentary evidence adduced in this case together with the representations made by the NMC. It referred to Rule 31(5) as follows:

> *'**31.**— (5) In determining whether a registrant's fitness to practise is impaired by reason of physical or mental health, the Fitness to Practise Committee may take into account, amongst other matters—*
>
> *(a) a refusal by the registrant to submit to medical examination;*
>
> *(b) the registrant's current physical or mental condition;*

(c) any continuing or episodic condition suffered by the registrant; and

(d) a condition suffered by the registrant which, although currently in remission, may be expected to cause a recurrence of the impairment of the practitioner's fitness to practise.'

The panel had regard to expert evidence from Professor Tanvir Ahmad Rana. This consisted of:

- Comprehensive Analysis of Ms McGarvey's health

In reaching its decision, the panel considered the submissions from NMC on impairment:

"20. Ms McGarvey's fitness to practise is currently impaired by reason of her health.

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. There is no burden or standard of proof to apply as this is a matter for the Fitness to Practise Committee panel's own professional judgement, as to the registered professional's suitability to remain on the register without restriction.

22. The Panel will decide whether Ms McGarvey can practice safely and effectively without restriction, which will involve 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.

23. The current NMC guidance on impairment at DMA-1 sets out that consideration of whether a professional's fitness to practise is currently impaired will involve an assessment whether the professional would pose a risk to public safety, the public's confidence in their profession or professional standards if they were permitted to practice without restrictions.

24. When determining whether the Registrant's fitness to practise is impaired, 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. Those questions were:

1. has [the Registrant] 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

2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

3. has [the Registrant] 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

4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

25. Limb 1 is engaged because Ms McGarvey's action of stealing various prescription medication over a period of months exposed those in her care to"

26. Limb 2 is engaged as registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional. The circumstances of Ms McGarvey's actions have brought the nursing profession into disrepute. She was convicted of stealing medication as a consequence of her health conditions. It is apparent from the most recent UKIM report that she is not fit to practise. It is submitted that Ms McGarvey has breached various codes such as Code 20.1 - they must keep to and uphold the standards and values set out in the Code, Code 20.2 - act with honesty and integrity at all times, Code 20.4

- keep to the laws of the country in which you are practising, and Code 20.9 -maintain a level of health needed to carry out their professional role.

27. Limb 3 is engaged because through her actions Ms McGarvey showed that she cannot be trusted to practise safely. Her health condition resulted in her breaching the fundamental tenets of the Code .

28. Limb 4 is engaged to the extent that Ms McGarvey was convicted of stealing medication over a period of couple of months. The medication were meant for patients and not for personal use and breached Code 20.2.

Remorse, reflection, insight, training and strengthening practice

29. The assessment of Ms McGarvey's fitness to practise requires the panel to examine what has happened since the issues of concern arose. As such the parties agree that helpful guidance can be found in the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment (adopted by the NMC guidance on impairment as);

i) whether the concern can be addressed by taking steps to strengthen practice

ii) whether the concern has been addressed

iii) whether it is highly unlikely that the conduct will be repeated

30. Ms McGarvey was convicted of stealing medication which is by nature a dishonest conduct and which was sustained over a period of time. It is submitted that this was a consequence of Ms McGarvey's health condition. The NMC guidance "Can the concern be addressed?" Reference FTP-15a states that dishonesty, particularly if it was serious and sustained over a period of time is an example 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. In this case although the conviction was a consequence of Ms McGarvey's health condition and it is possible to address Ms McGarvey's health, it has not been addressed.

31. The UKIM expert did not consider that Ms McGarvey has provided full insight and he has stated there is a risk of repetition. As set out in paragraph 19 above, there is a live risk of repetition. Although Ms McGarvey appeared to be apologetic about her actions that led to the conviction during local interview, the UKIM expert did not consider she showed evidence of an understanding of how serious her actions were in relation to stealing of the medication at work. Furthermore, it could not be said that she has been forthcoming about her health concerns. The UKIM expert has highlighted that her account was highly unreliable and inconsistent. For example, she was

unable to provide an explanation for the detection of cannabis in her DNA Workplace test results. The UKIM expert considered she has limited insight into the nature and severity of her dependence on opioid drugs. As per the NMC guidance on "Has the concern been addressed? Reference FTP-15b, Ms McGarvey's insight into her health is lacking and she hasn't taken sufficient steps to address her health concerns.

32. Ms McGarvey has not practised since these concerns and has not been able to demonstrate strengthened practice.

33. With regards the question of "Is it highly unlikely that the conduct will be repeated?" Reference FTP-15c, it is submitted that it is highly likely that the conduct as set out in the charges will be repeated as her health concerns have not been addressed and she hasn't provided sufficient insight into her health concerns.

34. In light of the above, it is submitted that Ms McGarvey's practice is impaired on the grounds of public protection.

35. In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

> *'"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."*

36. Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold public confidence in the professions and uphold professional standards

37. We consider there is a public interest in a finding of impairment being made in this case as Ms McGarvey has breached the provisions of the NMC Code and the fundamental tenets of nursing, and members of the public

would be appalled to learn that a nurse who was convicted for stealing prescription medication and health concerns was allowed to practise without any consequences. Such conduct severely damages and undermines public confidence in the nursing profession and the NMC as the regulator.

38. Ms McGarvey's fitness to practise is impaired on public protection and 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 and *Nandi v GMC* [2004] EWHC 2317 (Admin).

Decision and reasons on impairment

The panel was aware that in order to find Ms McGarvey's fitness to practise impaired by reason of her health conditions, it must first establish whether Ms McGarvey has a health condition that goes to the issue of her fitness to practise. If it does not, then there can be no subsequent finding of impairment of fitness to practise. If it does, the panel should go on to consider whether by reason of those health conditions Ms McGarvey's fitness to practise is impaired.

In coming to its decision, the panel had regard to the NMC Guidance on *'Impairment'* (Reference: DMA-1 Last Updated:28/01/2026) in which the following is stated:

'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'

The panel finds Ms McGarvey's fitness to practise to be currently impaired on both the grounds of public protection and the wider public interest.

The panel had regard to the medical and expert evidence, including the most recent expert report dated 12 December 2025. Expert psychiatric evidence stated that Ms McGarvey is "not fit to practise at all and presents a high risk of repeating the behaviour". The reports identified [PRIVATE]. The panel took into account that

[PRIVATE], despite Ms McGarvey's non-disclosure at the time of testing and her inconsistent account. The panel considered that this reduced the reliability of Ms McGarvey's account and increased the panel's concern about the current level of risk. Ms McGarvey's accounts were described as "*inconsistent and unreliable*". The report also stated that:

> *"Ms McGarvey has limited insight into the nature and severity of her [PRIVATE]."*

The panel accepted that Ms McGarvey has shown some insight, in that she has acknowledged aspects of her health difficulties and has admitted taking medication. However, the panel found that her insight remains limited. In particular, the panel had not received any reflective material demonstrating that Ms McGarvey fully understands the impact of her conduct on patients, colleagues, the public, and the reputation of the nursing profession.

The panel also noted that there was no evidence of any [PRIVATE]. The panel therefore considered that there remained a real risk of repetition.

The panel found impairment on public protection grounds.

The panel also found impairment on public interest grounds. The panel considered that theft of medication represents a serious breach of trust. Therefore, a finding of impairment is necessary to maintain public confidence in the profession and to uphold proper professional standards.

Accordingly, the panel found Ms McGarvey's fitness to practise currently impaired by reason of health.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that Ms McGarvey's registration has been suspended.

Representations on sanction

The panel noted the representation from the NMC which stated:

"39. We consider that an appropriate sanction is a 12 months' suspension order with review.

40. Aggravating factors include:

- Abuse of position of trust

- Limited insight into her actions resulting in a conviction and her health condition.

- A pattern of stealing medication over a period of time.

41. Mitigating factors are the health condition and personal stresses at the time of the incidents that led to a conviction.

42. With regard to our sanctions guidance the following aspects have led us to this conclusion:

43. Taking no further action, Reference SAN-2a would not be sufficient to protect the public as Ms McGarvey breached fundamental tenets of the professions (20.2 act with honesty and integrity at all times, 20.4 keep to the laws of the country in which you are practising and 20.9 maintain the level of health you need to carry out your professional role). There remains public protection and public interest – upholding public confidence in the professions and professional standards, concerns that require addressing. Ms McGarvey is not fit to practise.

44. A Caution Order, Reference SAN-2b would not be appropriate as it could not be said that there is no risk to patients requiring Ms McGarvey's practice to be restricted. The UKIM expert has indicated that Ms McGarvey is not fit to practise at all and has recommended various steps to be taken before Ms McGarvey could be considered as fit to practise. As Ms McGarvey was convicted of stealing medication and therefore involves dishonesty related concerns, it could not be said that the case is at the lower end of the spectrum of impaired fitness to practise.

45. Conditions of Practice Order, Reference SAN-2c could potentially be appropriate if there is no evidence of deep-seated personality or attitudinal

problems, there are identifiable areas of the professional's practice in need of assessment and/or retraining, the nurse, midwife or nursing associate has insight into any health problems, alongside willingness to abide by conditions relating to a medical condition, treatment and supervision, if people using services will not be put at risk either directly or indirectly as a result of the conditions and conditions can be created that can be monitored and assessed.

46. It is submitted that the conviction is dishonesty related and therefore serious and cannot be addressed by such an order. In addition, Ms McGarvey is not fit to practise at all and there is an unwarranted risk of harm to patients. The UKIM expert considered her insight into her health condition and the seriousness of her actions in relation to her conviction was limited. Therefore, conditions of practice order would not be appropriate or mark the seriousness of the concerns in the case. A suspension order, Reference SAN-2d would be the most appropriate as this is a health case and a striking off order, Reference SAN-2e can't be imposed if the professional's fitness to practise is impaired due to their health. Having considered the key things to weight up before imposing a suspension order and the non-exhaustive list of circumstances that may make a suspension order an appropriate sanction, it is submitted that the risk posed to the public or to people receiving care, can only be managed by temporary removal from the register as Ms McGarvey is not fit to practise at all as her circumstances surrounding her health stands. There is a risk of repetition of the concerns set out in the charges due to her limited insight into her conviction and health condition. A suspension order will be sufficient to protect people using services, public confidence in the profession and professional standards. It is realistic that Ms McGarvey could return to unrestricted practice in the future even if it's not appropriate for her to do so now if she manages to follow all the recommendations set out by the UKIM expert. It is submitted that the suspension order will give Ms McGarvey an opportunity to develop insight and reflection into the seriousness of her actions that resulted in a conviction as well as her health condition.

47. Therefore, based on the information above, the appropriate sanction in this case is a 12-month suspension order with a review."

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Ms McGarvey's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose. 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 regard to the NMC Guidance on *'The sanctions available'* (Reference: SAN-2 Last Updated: 28/01/2026). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- The conduct involved theft of prescription medication from Ms McGarvey's workplace.
- The conduct occurred over a period of time.
- There was a breach of trust.
- There was dishonesty and criminal offending.
- There was potential risk to patients.
- There remains limited insight into the wider impact of the conduct.
- There is insufficient evidence of sustained remediation or [PRIVATE].

The panel also took into account the following mitigating features:

- Ms McGarvey has relevant health conditions.
- There were personal circumstances and health-related difficulties at the relevant time.
- Ms McGarvey has engaged to some extent with medical assessment and testing.

The panel first considered taking no action or imposing a caution order and had regard to the NMC Guidance on *'Caution order'* (Reference: SAN-2b Last Updated: 28/01/2026) in which the following is stated:

> *'A caution is only appropriate if the Committee has decided there's no risk to the public or to people using services that requires the professional's practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.'*

The panel considered that your actions as a result of your health conditions were not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel also determined 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 McGarvey's registration would be appropriate. The panel is mindful that any conditions imposed must be relevant, proportionate, workable and measurable. The panel had regard to the NMC Guidance on *'Conditions of practice order'* (Reference: SAN-2c Last Updated: 28/01/2026) and had regard to the following factors:

- *'no evidence of deep-seated personality or attitudinal problems*
- *identifiable areas of the professional's practice in need of assessment and/or retraining*
- *competence cases where there is a realistic likelihood that the concerns about their practice can be resolved*
- *potential and willingness to respond positively to retraining (this should be based on specific evidence provided by the professional)*
- *insight into any health problems, alongside willingness to abide by conditions relating to a medical condition, treatment and supervision*
- *people using services will not be put at risk either directly or indirectly as a result of the conditions*
- *conditions can be created that can be monitored and assessed.'*

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

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

The panel went on to consider whether a suspension order is appropriate in this case. The panel had regard to the NMC Guidance on *'Suspension order'* (Reference: SAN-2d Last Updated: 28/01/2026) in which the following factors on when a suspension order may be appropriate are set out:

- *'the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective.'*

The panel also had regard to the key considerations as set out in the NMC Guidance to weigh up before imposing a suspension. It noted the following list of circumstances that may make a suspension order an appropriate sanction:

- *'the charges found proved are at the most serious end of the spectrum and call into question the professional's suitability to continue practising, either currently or at all*
- *while it is possible that the professional could be fit to practise in future, only a period out of practice would be sufficient to allow them to fully strengthen their practice through reflection, the development of their professional skills and / or development of insight and remediation*
- *there is a risk to the safety of people using services if the professional were allowed to continue to practise even with conditions*

- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.'*

The panel was satisfied that in this case, the concerns relating to Mrs McGarvey's health were not fundamentally incompatible with remaining on the register.

The panel concluded that a suspension order was the appropriate and proportionate sanction. The panel noted that, in a health case, striking off is not available at this stage. The panel considered that suspension would protect the public, maintain public confidence, and allow Ms McGarvey an opportunity to demonstrate meaningful engagement, treatment, [PRIVATE] and insight. Whilst the panel acknowledges that a suspension may have a punitive effect, it would not be inappropriate in Ms McGarvey's case.

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

The panel noted the hardship such an order will inevitably cause Ms McGarvey. 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 12 months was appropriate in this case to mark the seriousness of the misconduct.

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:

- Evidence of [PRIVATE] at least once every six months and prior to the next NMC review.
- Evidence of engagement via a report from her GP and an agreed treatment plan.
- Evidence of [PRIVATE].
- Evidence of [PRIVATE].
- A reflective piece addressing the seriousness of the conduct, dishonesty, patient risk, public confidence and professional standards.
- Evidence of keeping nursing knowledge and practice up to date.
- Continued engagement with the NMC regulatory process.

This will be confirmed to Ms McGarvey 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 McGarvey'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:

> *"If a finding is made that Ms McGarvey's fitness to practise is impaired on a public protection basis and/or in the public interest grounds and a restrictive*

sanction imposed, we consider an interim 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/or 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.

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

That concludes this determination.