Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Monday, 9 November 2026

Virtual Meeting

Name of Registrant:	**Kayleigh Boyd Cunningham**
NMC PIN:	23G3578E
Part(s) of the register:	Nursing Sub part 1 RNMH, Registered Nurse - Mental Health – 3 October 2023
Relevant Location:	Telford
Type of case:	Conviction
Panel members:	Paul Hepworth (Chair, lay member) Jim Blair (Registrant member) Michelle Providence (Lay member)
Legal Assessor:	Alice Robertson Rickard
Hearings Coordinator:	Adaobi Ibuaka
Facts proved:	Charge 1 in its entirety
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	**Suspension order (6 months)**
Interim order:	**Not imposed**
Final outcome:	**FTP impaired - suspension order**

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 5 October 2026.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided Ms Cunningham details of the allegation, and indicated that the substantive meeting will be held on or after 9 November 2026.

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 28 May 2025 at Nottingham Magistrates Court were convicted of:

    a) Between 01/08/2024 and 04/08/2024 at Telford in the County of Shropshire, being a person who had attained the age of 16 years, and having responsibility for Child A, a child under that age, wilfully assaulted, ill-treated, neglected, abandoned or exposed the said Child A in a manner likely to cause them unnecessary suffering or injury to health, contrary to section 1(1) of the Children and Young Persons Act 1933

    b) Between 01/08/2024 and 04/08/2024 at Telford in the County of Shropshire, being a person who had attained the age of 16 years, and having responsibility for Child B, a child under that age, wilfully assaulted, ill-treated, neglected, abandoned or exposed the said Child B in a manner likely to cause them unnecessary suffering

or injury to health, contrary to section 1(1) of the Children and Young Persons Act 1933

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

Background

Ms Cunningham self-referred to the NMC on 9 September 2024.

Ms Cunningham stated that she was arrested under caution on or around 4 August 2024 under suspicion of child neglect. It is alleged that she left her children, aged 7 and 10, alone at home with the two dogs for four days without adult supervision.

When the police arrived, Ms Cunningham was getting in the car with the children and two dogs. The police advised Ms Cunningham that they were undertaking a welfare check on the children after concerns had been raised by neighbours to the police. Ms Cunningham was asked whether she had left the children at home alone. Ms Cunningham told the police that she had been in Sheffield with her partner for two or three days.

It is reported the police looked through the window of the home and observed poor living conditions.

Ms Cunningham was interviewed and charged and she subsequently appeared at Nottingham Magistrates Court on 28 May 2025, where she submitted a guilty plea and was given a 12 month suspended sentence.

Decision and reasons on facts

The charge concerns Ms Cunnigham's conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts 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.'

Representations on impairment

The NMC made no representations at the meeting however, the panel noted from its guidance that it was required to bear in mind the overarching objective to protect the public and the wider public interest.

Ms Cunningham provided written representations to the effect that her fitness to practice was not currently impaired.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)(*Grant)* and *R (on the application of Cohen) v General Medical Council* is [2008] EWHC 581 (Admin)(*Cohen)*.

Decision and reasons on impairment

The panel next 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 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.'

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 finds limbs b – c of the *Grant* test engaged. The panel finds that patients were not put at risk of harm and are not at an unwarranted risk of harm in the future. This is because the evidence before it that Ms Cunningham has at all times behaved professionally and appropriately whilst at work and is a compassionate nurse. This was highlighted by a number of testimonials but in particular that of Rachael Mackley (Ms Mackley), which stated as follows:

> *'Throughout the time I have known and worked with Kayleigh, I have consistently observed her to be a dedicated, compassionate, and highly professional nurse. She is well respected by both colleagues and patients and has always demonstrated a strong commitment to delivering safe, effective, and person-centred care.'*

However, Ms Cunningham's actions in her home life which led to the conviction breached the fundamental tenets of the nursing profession by failing to promote professionalism and trust and therefore brought its reputation into disrepute.

The panel considered the NMC guidance on '*criminal convictions and cautions*' (FTP-2c), specifically:

> *'Assessing the seriousness of convictions and cautions*
> *Specified offences and custodial sentences*
>
> *We will almost always take concerns to a fitness to practise panel when a professional*
>
> - *has been convicted of any of the serious crimes we classify as* ***specified offences*** *and/or*
> - *has been given a custodial sentence (including suspended sentences).*

That is because this offending is considered to be so serious that it is likely to undermine our professional standards and public confidence in the professions we regulate.'

The panel also considered the NMC guidance: Directly referring specified offences to the Fitness to Practise Committee (FTP-2C-1), specifically:

'What are specified offences?
In our guidance 'specified offences' means:

- *…*
- *…*
- *serious offences involving children*

…

Serious offences involving children

In addition to sexual offences involving children, this includes:

- *Cruelty to a child – assault and ill treatment, abandonment, neglect, and failure to protect'*

The panel determined that Ms Cunningham's convictions raised fundamental concerns about her ability to uphold the standards and values set out in the Code. The panel further considered that Ms Cunningham's conviction was for a specified offence, of which the guidance at FTP-2c deems as particularly serious and at the higher end of the spectrum. The panel also considered that Ms Cunningham's conviction was also a custodial sentence which was suspended and further aggravates the seriousness of her conviction.

Regarding insight, the panel noted that Ms Cunningham made admissions to the offences at Court, and in her reflective piece, demonstrated an understanding of the importance of maintaining her [PRIVATE] and her overall wellbeing. Ms Cunningham has expressed remorse over her behaviour and reflected on the circumstances that led up to the incidents, [PRIVATE] and being under pressure at work.

‘I accept full responsibility for my actions and the harm and trauma they caused my children. I am deeply remorseful and ashamed that [PRIVATE] I failed them. I have reflected on this every single day since my arrest, and I know that no explanation can undo the hurt they experienced. My focus has been, and always will be, on learning from my failings and ensuring they can never happen again.

When everything happened, [PRIVATE]’

The panel also had regard to written testimonials and references from her employer, who stated that Ms Cunningham is a good nurse.

‘Feedback for the ward manager on the Hatherton Centre is that Kayleigh is working within her capability’s and is good nurse and works as part of the ward team well.

All task that Kayleigh is set to complete she dose to a high standard. I have no concerns with her practice and RMN.’(sic)

The panel taking into account the above along with her other reflections, considered that Ms Cunningham had taken time to understand the impact of her actions and its effect on her children and the potential impact on her work. The panel considered that Ms Cunningham had apologised for her actions and was taking steps to remediate it. However, the panel was not satisfied that Ms Cunningham had fully developed her insight as there were gaps within her reflections about precisely why she had stopped [PRIVATE] and why she had left her children alone to go and stay with her partner. In the absence of a deeper understanding of why this had occurred, the panel could not categorise her insight as fully developed despite her extensive reflections. [PRIVATE]. The panel therefore determined that Ms Cunningham had developing insight.

The panel considered the NMC guidance in DMA-1 and the case of Cohen. It considered whether Ms Cunningham’s conviction was easily remediable. The panel determined that although it was capable of being remediated it was not easily remediable.

In its consideration of whether Ms Cunningham has taken steps to remediate the concerns, the panel noted Ms Cunningham stated that the events that took place occurred due to [PRIVATE]. She had taken steps to address this [PRIVATE].

'[PRIVATE].'

The panel however, determined that although Ms Cunningham had indicated that she was making efforts to remediate the concerns [PRIVATE], she had not provided the panel with any [PRIVATE] evidence to support this. In the absence of [PRIVATE] evidence there was no objective evidence of whether Ms Cunninghams [PRIVATE]. The panel however decided that a finding of impairment was not necessary on the grounds of public protection. It noted that Ms Cunningham had not had any issues in her clinical practice even when unwell.

The panel bore in mind that the overarching objective of the NMC is 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, despite the extensive reflections and work to address the concerns in this case, a finding of impairment on public interest grounds was nonetheless required. The panel was of the view that a well-informed member of the public would be very concerned if no finding of impairment were made in light of Ms Cunnigham's convictions, especially given the nature of the convictions.

Having regard to all of the above, the panel was 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 6 months. The effect of this order is that the NMC register will show that Ms Cunningham's registration has been suspended.

The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 5 October 2026, the NMC had advised Ms Cunningham that it would seek the imposition of a striking-off order if it found Ms Cunningham's fitness to practise currently impaired.

Ms Cunnigham made written representations that if a sanction were to be imposed it should be a conditions of practice order in light of the fact that she had been working successfully under conditions of practice during the interim period.

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. 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 found no aggravating factors in this case.

The panel took into account the following mitigating factors:

- Early guilty pleas at Court
- Remorse demonstrated by Ms Cunningham
- Good references from employer
- Developing insight, with significant reflections
- Actions taken to remediate behaviour
- Evidence Ms Cunningham has worked safely and professionally, in the same role since the incident.
- Personal mitigation relating to: [PRIVATE], pressure at work.

The panel initially considered whether a caution order was an appropriate sanction 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.'*

Whilst the panel did not find that there was a risk to patient safety, it did not consider that the conduct which led to the conviction was at the lower end of the spectrum. On the contrary, it was serious and involved the neglect of her children. The panel therefore determined it would be insufficient to mark the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Cunningham'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 gave this careful consideration in light of Ms Cunningham's submissions that conditions of practice would be the appropriate sanction. The panel acknowledged that conditions could be formulated to monitor Ms Cunningham's [PRIVATE], but noted that her clinical skills were not in question. The panel was mindful of its finding that Ms Cunningham's fitness to practise was impaired not on public protection grounds, but on public interest grounds. It determined that despite that fact that Ms Cunningham had been working successfully under conditions at the interim stage, at this stage conditions would be insufficient to mark the serious public interest concerns, given that Ms Cunningham had been convicted of a serious specified offence, relating to child neglect.

The panel went on to consider whether a suspension order was 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 conviction was not fundamentally incompatible with Ms Cunningham remaining on the Register. It considered that Ms Cunningham had already taken steps to remediate her actions and that a period of suspension would allow her time to fully develop her insight and remediate the concerns further. Given the nature and seriousness of the charges, public confidence in the profession and professional standards could not be maintained if Ms Cunningham was able to continue practising without stopping for a period of time. The panel considered that Ms Cunningham has engaged with the proceedings and has shown developing insight, which demonstrates that there is a realistic possibility that she will continue to develop this insight and address the concerns in order to return to practice.

In making this decision, the panel carefully considered the NMC sanction bid for a striking-off order. The panel took into account all the information before it, and of the mitigation provided. The panel concluded that it would be disproportionate and unduly punitive in Ms Cunningham's case. The panel considered that Ms Cunningham had demonstrated a developing insight, remorse and remediation into her actions and was not incompatible with returning to the Register.

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 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 6 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:

- Updated reflections in relation to the underlying causes of the behaviour which led to the conviction
- Evidence of maintenance of clinical knowledge and training courses, e.g. while working in a support and/or similar healthcare role
- Up to date testimonials
- [PRIVATE].
- The panel would be assisted by your continued engagement and appearance at a substantive review hearing.

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.

The panel determined that an interim order was not necessary in this case. It determined that Ms Cunningham had been working as a nurse without any incident since the allegations and this would give her and her employer time to make arrangements before

the suspension order begins. In terms of the public interest, this would be properly marked by the substantive order itself.

Ms Cunningham has the right to appeal the decision and if no appeal is made, then the substantive suspension order will take effect 28 days after Ms Cunningham is sent the decision of this hearing in writing.

That concludes this determination.