

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

**Substantive Meeting
Thursday 27 October 2022**

Virtual Meeting

Name of registrant:	Natalie Nichola Thompson
NMC PIN:	06A0221E
Part(s) of the register:	RN5 - Registered Nurse - Learning Disabilities Nursing – 30 November 2006
Relevant Location:	Dudley
Type of case:	Conviction
Panel members:	Philip Sayce (Chair, Registrant member) Allwin Mercer (Registrant member) Alex Forsyth (Lay member)
Legal Assessor:	Ben Stephenson
Hearings Coordinator:	Anya Sharma
Facts proved:	Charge 1
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Suspension order (3 months)
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Thompson's registered email address on 23 September 2022.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and venue of the meeting and that Miss Thompson could request a hearing should she wish.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss Thompson 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 21 October 2021 were convicted at Black Country Magistrates Court (sitting at Dudley) of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath, namely 104 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, contrary to Section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988.

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

Background

Miss Thompson self-referred and informed the NMC of her conviction on 27 October 2021. Miss Thompson appears on the NMC register as a RNLD: Learning Disabilities nurse, level 1 and joined the NMC register on 2 January 2007. At the time of the referral, Miss Thompson was employed by Birmingham and Solihull Mental Health Trust at Ardenleigh Hospital as a nurse.

On 21 October 2021 Miss Thompson was convicted at Dudley Magistrates Court of driving a motor vehicle with excess alcohol on 2 May 2021, which was detected following a collision involving Miss Thompson. Miss Thompson was disqualified from driving for 28 months, received a 12-week prison sentence which was suspended for 12 months, a fine of £250.00 and was ordered to pay a victim surcharge of £128 and costs of £135.

Miss Thompson's disqualification can be reduced by 28 weeks if she completes a drivers awareness course approved by the Secretary of State by 8 June 2023. Miss Thompson has not informed the NMC as to whether or not she has completed this course.

Decision and reasons on facts

The charge concerns 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 announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Miss Thompson's fitness to practise is currently impaired by reason of Miss Thompson's conviction. 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.

Representations on impairment

The NMC reminded the panel of its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

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, *Nandi v GMC* [2004] EWHC 2317 (Admin), and *GMC v Meadow* [2007] QB 462 (Admin).

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Miss Thompson's fitness to practise is currently impaired. It had sight of the NMC's written submissions on impairment.

Nurses occupy a position of privilege and trust in society and are expected, at all times, to behave professionally. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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 that Miss Thompson's conviction, which relates to a serious offence, has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to such a conviction serious. The panel considered that Miss Thompson has not provided any evidence of remediation, such as completion of a drivers awareness course, to suggest that she has taken any steps to remediate her conduct. It also noted Miss Thompson's lack of engagement with the NMC and that she has provided no evidence of insight into her actions. The panel therefore determined that there is a high risk of repetition and damage to the reputation of the nursing profession and the NMC as a regulator.

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 accepted the submissions of the NMC that the event leading to the conviction occurred when Miss Thompson was not working nor was she due to work. It concluded, therefore, that there would be no direct risk to patients in her care as a consequence of her actions at the material time.

However, the panel determined that a finding of impairment on public interest grounds is required as public confidence in the profession would be significantly undermined if a finding of impairment were not made in this conviction case and consequently finds Miss Thompson's fitness to practise impaired on these grounds.

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

Representations on sanction

The panel noted that in the Notice of Meeting, dated 23 September 2022, the NMC had advised Miss Thompson that her case would be considered at a meeting and that a panel of the Fitness to Practise committee will consider the facts of the case, whether Miss Thompson's fitness to practise is impaired, and if so whether a sanction is required.

The panel also had sight of the NMC's written submissions on sanction, which sets out that an appropriate and proportionate sanction is of a four-month suspension order without a review.

Decision and reasons on sanction

Having found Miss Thompson'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 NMC Sanctions Guidance (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:

- Miss Thompson's serious criminal conviction
- Miss Thompson has not provided any evidence of insight into her conduct which led to the conviction and has not provided any reflective account.

The panel also took into account the following mitigating features:

- There are no concerns regarding Miss Thompson's clinical practice

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the criminal conviction. 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 this would not sufficiently mark the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order due to the serious nature of Miss Thompson's criminal conviction.

The panel next considered whether placing conditions of practice on Miss Thompson's registration would be a sufficient and appropriate response. The panel noted that there is no evidence of incompetence or identifiable areas of nursing practice requiring assessment or retraining and therefore concluded there are no practicable or workable conditions that could be formulated, given the nature of Miss Thompson's criminal conviction in this case. Further, the panel concluded that the placing of conditions on Miss Thompson's registration would not adequately address the seriousness of her criminal conviction.

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 repetition of behaviour since the 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, 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 Miss Thompson'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.

The panel noted the hardship such an order will inevitably cause Miss Thompson. 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.

Having found that Miss Thompson's fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found Miss Thompson's fitness to practise impaired on the grounds of public interest.

The panel determined that a suspension order for a period of three months was appropriate in this case to mark the seriousness of the conviction. The panel noted that Miss Thompson's practice has been subject to an interim suspension order since 23 November 2021.

In accordance with Article 29 (8A) of the Order the panel has exercised its discretionary power and has determined that a review of the substantive order is not necessary.

The panel determined that it made the substantive order having found Miss Thompson's fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will expire without review.

This will be confirmed to Miss Thompson 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 Miss Thompson's own interest 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 written submissions from the NMC on sanction:

'If the operational period of the suspended sentence is still active then it is also in the public interest for there to be Interim Suspension Order of 18 months to cover the 28-day appeal period and the time required to determine any appeal which is lodged. This is sought on the same grounds as set out above.'

Decision and reasons on interim order

The panel noted that the suspended sentence had, at the time of this meeting, expired. Nevertheless, the panel went on to consider whether an interim order was necessary.

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 on public interest grounds only for a period of 18 months to cover any appeal made in this case.

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

That concludes this determination.