

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

Substantive Hearing

21 – 30 October 2019

23 – 24 January 2020

6 February 2020

26-28 January 2021 (virtual)

Nursing and Midwifery Council, 114-116 George Street, Edinburgh, EH2 4LH

Name of registrant:	Kenneth Wilson
NMC PIN:	08I2200S
Part(s) of the register:	Nursing, Sub part 1 Mental Health - 2011
Area of Registered Address:	Scotland
Type of Case:	Misconduct
Panel Members:	Melissa D'Mello (Chair, Lay member) Terry Shipperley (Registrant member) Hartness Samushonga (Registrant member)
Legal Assessor:	Robert Frazer (21 – 30 October 2019, 23 – 24 January 2020, 6 February 2020) Graeme Henderson (26 – 28 January 2021)
Panel Secretary:	Xenia Menzl
Mr Wilson:	Not present and not represented
Nursing and Midwifery Council:	Represented by Alastair Kennedy, NMC Case Presenter (21 to 25, 28 and 29 October 2019, 23 – 14 January 2020, 6 February 2020, 26 – 28 January 2021) Mr Segovia, NMC Case Presenter (28 October 2019)
Facts proved:	4, 5a, 5b, 5c, 6, 8a, 8b, 9, 10a, 10b, 10c, 10f, 10h, 10i, 11a, 11b & 12a

Facts not proved:	1, 2, 3, 7, 10d, 10e & 10g
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim Order:	Interim suspension order (18 months)

Details of charge (as amended):

That you, a registered nurse, whilst employed at Heathfield House Care Home;

- 1) Between 20 March 2017 and 24 March 2017, stole 20 tablets of Dihydrocodeine. **Not Proved**
- 2) Between 24 March 2017 and 27 March 2017, stole 9 tablets of Dihydrocodeine. **Not Proved**
- 3) Between 24 April and 25 April 2017, stole 30 tablets of Co-codamol. **Not Proved**
- 4) Between 26 April 2017 and 27 April 2017, stole ~~39~~ **30** tablets of Co-codamol. **Proved**

That you, a registered nurse, whilst seeking employment and/or during your employment at Seabank Care Home;

- 5) On or around 3 July 2018 submitted an application form to Seabank Care Home;
 - a) Stating that you had been employed as a Deputy Manager at Templeton House between January and March 2015. **Proved**
 - b) In which you did not disclose that you had a previous conviction. **Proved**
 - c) In which you did not confirm that Argus Care Group could obtain a police check from Disclosure Scotland. **Proved**
- 6) Your actions in charge 5 a) above were dishonest, in that you intended to mislead your prospective employer. **Proved**
- 7) Your actions in charge 5 b) & c) lacked integrity, in that you did not disclose important information to your prospective employer. **Not Proved**
- 8) On or around 3 July 2018 during your interview at Seabank Care Home, you;
 - a) Stated that you had been employed as Deputy Manager at Templeton House. **Proved**
 - b) Stated that you had put in your resignation notice to Heathfield House Care Home in May 2017. **Proved**
- 9) Your actions in charges 8 a) & b) above were dishonest, in that you intended to mislead your prospective employer. **Proved**

10) During your night shift between ~~8~~ 9 & 10 July 2018;

- a) Did not administer Co-codamol to Resident B. **Proved**
- b) Did not administer Senna to Resident C. **Proved**
- c) Did not administer Trazodone to Resident D. **Proved**
- d) Did not administer Lactulose to Resident E. **Not Proved**
- e) Did not administer Senna to Resident E. **Not Proved**
- f) Did not administer Trazodone to Resident F. **Proved**
- g) Did not administer Gabapentin to Resident G. **Not Proved**
- h) Did not administer Atorvastatin to Resident H. **Proved**
- i) Did not administer Trazodone to Resident I. **Proved**

11) During your shift on 14 August 2018;

- a) Did not administer Stanek to Resident J **Proved**
- b) Incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg **Proved**

12) During your shift on 15 August 2018;

- a) Incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg. **Proved**

And in light of the above, your fitness to practise is impaired by reason of your misconduct.

Decision on Service of Notice of Hearing

The panel was informed at the start of the hearing that Mr Wilson was not in attendance and that written notice of this hearing had been sent to Mr Wilson's registered address by recorded delivery and by first class post on 20 September 2019.

Mr Kennedy told the panel that the letter had been correctly addressed to Mr Wilson and that the Royal Mail track and trace showing notice of this hearing was delivered to Mr Wilson's registered address on 21 September 2019 and was signed for in the printed name 'Wilson'. However, Mr Kennedy also informed the panel that there had been an administrative error and that the name which appeared in the NMC's recorded delivery book against this letter had been incorrectly recorded. Mr Kennedy presented that the administrative error had not affected the delivery of that letter to Mr Wilson.

Mr Kennedy therefore submitted that the NMC had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ("the Rules").

The panel took into account that the notice provided details of the allegations, the time, dates and venue of the hearing and, amongst other things, information about Mr Wilson's right to attend, to be represented and to call evidence, as well as the panel's power to proceed in his absence.

The panel noted the incorrect entry in the recorded delivery book but was satisfied that the hearing notice was sent to Mr Wilson's registered address, given the evidence of delivery and the signature of receipt.

The panel accepted the advice of the legal assessor, who referred to Rules 11 and 34.

In the light of all of the information available, the panel was satisfied that Mr Wilson has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision on proceeding in the absence of the Registrant

The panel next considered whether it should proceed in the absence of Mr Wilson.

The panel had regard to Rule 21 (2) which states:

(2) Where the registrant fails to attend and is not represented at the hearing, the Committee

(a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;

(b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or

(c) may adjourn the hearing and issue directions.

Mr Kennedy submitted that whilst there had been some engagement with Mr Wilson, there had been no contact from him since April 2018 despite repeated efforts by the NMC. Mr Kennedy took the panel through various pieces of correspondence sent from the NMC to Mr Wilson in regard to this hearing. These included letters dated 3 July 2019, 12 September 2019, and 14 October 2019 as well as emails dated 5 August 2019, and 25 September 2019 all of which confirmed the dates of this hearing and encouraged him to engage. Mr Wilson did not respond to any of the correspondence. Further Mr Kennedy advised the panel that tracing agents had been employed by the NMC to determine whether there might be an alternative postal address for Mr Wilson but, as of 25 September 2019, none had been ascertained.

Mr Kennedy submitted that the NMC had done all it could to encourage Mr Wilson to engage with these proceedings. Further, he reminded the panel that there is an obligation on a registrant to engage with any regulatory proceedings as referred to in the case of *General Medical Council v Adeogba* [2016] EWCA Civ 162. Mr Kennedy

submitted there was no reason to believe that an adjournment would secure his attendance on a future occasion.

Mr Kennedy therefore invited the panel to continue in the absence of Mr Wilson on the basis that he had voluntarily absented himself.

Mr Kennedy told the panel that a number of witnesses were due to attend who would be put to considerable inconvenience should the matter be adjourned.

Mr Kennedy submitted it was in the interests of justice to proceed with the hearing today and to bring matters to a conclusion.

The panel accepted the advice of the legal assessor, who referred the panel to the cases of *R. v Jones (Anthony William), (No.2)* [2002] UKHL 5 and *Adeogba*.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “*with the utmost care and caution*” as referred to in the case of *Jones*.

Having carefully considered matters, the panel decided to proceed in the absence of Mr Wilson. In reaching this decision, the panel considered the submissions of the case presenter and the advice of the legal assessor. It had particular regard to the relevant factors set out in the decision of *Jones*. In particular, it noted that:

- no application for an adjournment has been made by Mr Wilson;
- Mr Wilson has not engaged with the NMC since April 2018 and has not responded to any of the letters or emails sent to him about this hearing;
- Mr Wilson has not provided the NMC with details of how he may be contacted other than his registered postal and email addresses. The tracing agent employed by the NMC was unable to determine an alternative postal address;
- Mr Wilson has a duty to engage with the NMC as his regulator;
- there is no reason to suppose that adjourning would secure his attendance at some future date;

- three witnesses have attended today to give live evidence, four others are due to give live evidence this week;
- not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- the charges relate to events that occurred in 2017 and 2018 and are serious;
- further delay may have an adverse effect on the ability of witnesses accurately to recall events;
- there is a strong public interest in the expeditious disposal of the case.

The panel recognised that there was some disadvantage to Mr Wilson in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address, he has made no response to the allegations. He will not be able to challenge the oral evidence relied upon by the NMC and will not be able to give evidence on his own behalf. However, in the panel's judgment, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross examination and may, of its own volition, explore any inconsistencies in the evidence which it identifies.

In all the circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Wilson. The panel will draw no adverse inference from Mr Wilson's absence and will proceed to determine the case with the utmost care and caution.

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Kennedy, on behalf of the NMC, to amend the wording of charge 4 and charge 10 (g).

The proposed amendment was to correct typographical errors. It was submitted by Mr Kennedy that the proposed amendment would provide clarity and more accurately reflect the evidence.

Original charge:

4) Between 26 April 2017 and 27 April 20187 stole 39 tablets of Co-codamol.

Proposed charge:

4) Between 26 April 2017 and 27 April 20187 stole 39 tablets of Co-codamol.

Original charge:

10) g) Did not administer Gabapentin Resident G.

Proposed charge:

10) g) Did not administer Gabapentin **to** Resident G.

The panel accepted the advice of the legal assessor who referred to Rule 28 of the Rules which states:

28.— (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—

(a) the charge set out in the notice of hearing; or

(b) the facts set out in the charge, on which the allegation is based,

unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.

- (2) *Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.*

The panel was of the view that such amendments, as applied for, were fair and in the interests of justice. The panel was satisfied that there would be no prejudice to Mr Wilson and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, to ensure clarity and accuracy in the charges as specified.

Decision and reasons on application under Rule 19

Mr Kennedy next made an application that part of the hearing of the case be held in private on the basis that the reason for a subsequent application to hear evidence via video link involved reference to the personal circumstances of witness, Ms 6, who was the Director of Heathfield at the time of the allegations. The application was made pursuant to Rule 19 of the Rules.

The legal assessor reminded the panel that while Rule 19 (1) provides, as a starting point, that hearings shall be conducted in public, Rule 19 (3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Rule 19 states:

19. (1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.
- (2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.
- (3) Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied

- (a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.
- (4) In this rule, “in private” means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.

Having heard that there will be reference to the personal circumstances affecting the witness, Ms 6, the panel determined to hold such part of the hearing in private. The panel determined to rule on whether or not to go into private session as and when such issues were raised.

Application to admit video link evidence under Rule 31

Mr Kennedy made an application to hear the evidence of Ms 6 by videolink under Rule 31 of the Rules, as he informed the panel that Ms 6 would find it difficult to attend the hearing in person for family reasons.

He submitted that a videolink would still allow the panel to assess the demeanour of the witness when she gave evidence.

The legal assessor referred to Rule 31 and advised the panel that it had the discretion to hear evidence in whatever form it considered appropriate provided it did not cause injustice to any party.

In reaching its decision the panel considered that the most pragmatic approach would be to hear from Ms 6 by videolink rather than to delay the hearing until dates when Ms 6 could attend in person. It concluded that this approach would not cause unfairness to Mr

Wilson, who was aware that Ms 6 was due to give evidence and had been supplied with a copy of her statement.

The panel therefore agreed to grant the application.

Application to admit additional evidence under Rule 31

During Ms 1's witness evidence it became apparent that further documentation was required to interpret the record of the Co-codamol Check carried out on 26, 27 and 28 April 2017.

The panel requested that Mr Kennedy make enquiries as to whether the source data in the form of the residents' Medication Administration Records (MAR charts) could be made available. The panel considered these to be important as they directly related to charges 3 and 4. Mr Kennedy subsequently advised that the MAR charts were able to be obtained and took steps for them to be sent promptly to the NMC.

Once the MAR charts were received, Mr Kennedy made an application for these to be admitted under Rule 31. Mr Kennedy submitted that the documentation was clearly relevant as it directly related to the charges. Mr Kennedy submitted that Mr Wilson was aware of the evidence against him which would have been included in the documentation sent to him. He accepted that Mr Wilson would not have been sent the MAR charts but reminded the panel that it should consider fairness to the NMC as well as to Mr Wilson in considering their admission.

The panel accepted the advice of the legal assessor, who drew the panel's attention to the case of *PSA v NMC Jozi 2015 [EWHC] 764 (Admin)* which gives a panel the discretion to obtain any further evidence it considers necessary.

The panel considered the evidence to be relevant to charges 3 and 4 to in order enable it to fully understand the record of the Co-codamol Check. The panel noted the possible unfairness to Mr Wilson as he had not had sight of the MAR charts. However, Mr Wilson was aware of the charges which related to these charts. Furthermore, the panel considered that any unfairness to him was mitigated by the need to consider patient

safety and the overall public interest in this matter. In the circumstances the panel considered it was fair and appropriate to admit this evidence and granted the application.

Decision and reasons on application pursuant to Rule 31 to admit telephone evidence

The panel heard an application made by Mr Kennedy under Rule 31 of the Rules to hear Ms 7's evidence via telephone. Mr Kennedy explained to the panel that Ms 7 was not a registered nurse and cannot be compelled to attend and give evidence. Mr Kennedy advised the panel that Ms 7 was unable to attend this hearing due to work commitments but would be available to give her evidence over the telephone.

Mr Kennedy submitted that her evidence was highly relevant to charges 5a and 8a. He submitted there would be no prejudice to Mr Wilson in admitting this evidence via telephone link as the panel would still be able to ask any questions and explore any discrepancies in her evidence.

Mr Kennedy reminded the panel that Mr Wilson had been advised that Ms 7 would be giving evidence to this hearing. On this basis, Mr Kennedy submitted that there was no lack of fairness to Mr Wilson in allowing Ms 7 to give her evidence via telephone.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. He reminded the panel of his previous advice in respect of Rule 31.

The panel considered that Ms 7's evidence was clearly relevant as she was the only witness who can speak directly to the capacity in which Mr Wilson was employed at the Templeton. In addition, the panel considered her evidence was likely to be succinct as it related to a very discrete matter.

The panel considered whether it would be unfair to Mr Wilson to hear Ms 7's evidence via telephone. The panel considered that as Mr Wilson had been provided with a copy

of Ms 7's statement and, as the panel had already determined that Mr Wilson had voluntarily absented himself from these proceedings, he would not be in a position to cross examine this witness. There was also public interest in the charges being explored which involved allegations of dishonesty.

The panel was satisfied that, under the circumstances, balancing fairness to the NMC with fairness to Mr Wilson, that it was fair and appropriate to allow Ms 7 to give evidence by telephone link.

Application to adjourn

Ms 7 was originally cited to give evidence on day 3 of the hearing. The panel was advised that she would be available to give evidence until late in the day. However, at approximately 5pm Mr Kennedy advised the panel that Ms 7 was no longer available and matters were adjourned until the following day.

On day four Mr Kennedy made an application to adjourn the hearing until 11.30am the following day. Mr Kennedy advised the panel that, due to work commitments, Ms 7 was not available until such time. Mr Kennedy further advised the panel that the time of 11.30am had been confirmed by email by Ms 7 to the NMC case officer.

Mr Kennedy therefore invited the panel to adjourn until the following morning to facilitate the hearing of Ms 7's evidence.

The panel accepted the advice of the legal assessor who reminded the panel that the application was for an overnight adjournment to enable the witness to give her evidence.

The panel took into account the need for the expeditious disposal of the case and the fact that the NMC could not compel Ms 7 to attend. The panel considered that Ms 7 was an important witness in respect of charges 5a and 8a. The panel considered there would be no unfairness to Mr Wilson in adjourning until following day to enable Ms 7 to give live evidence.

The panel therefore accepted Mr Kennedy's application to adjourn the hearing until 11.30am on day 5 when Ms 7 had confirmed she would be available.

Application to amend charge 10 under Rule 28

At the end of the NMC case, the panel heard an application made by Mr Kennedy, on behalf of the NMC, to amend the date of charge 10.

The proposal was to amend the date of charge 10 from '8 & 9 July' to '9 & 10 July' 2018 which was consistent with the written and oral evidence. Mr Kennedy submitted that there would be no prejudice to Mr Wilson in that it did not change the nature of the charge itself.

Original charge:

10) During your night shift between 8 & 9 July 2018

Proposed charge:

10) During your night shift between **9 & 10** July 2018

The panel accepted the advice of the legal assessor who referred to Rule 28 of the Rules which states:

28. (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend

(a) the charge set out in the notice of hearing; or

(b) the facts set out in the charge, on which the allegation is based,

unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.

(2) Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.

The panel considered Mr Kennedy's application with the utmost care and caution. It noted that whilst Mr Wilson had been sent the unamended charge he was aware of the nature of the allegations involving failures in drug administration. He will have been sent the witness statements and other documents which showed the dates as proposed by the amendment.

The panel took into account that the Adult Protection/Adult Concern Referral Forms (APR), completed at the time Ms 3 noted the dates of 9 to 10 July 2018. This was confirmed by Ms 3 in her oral evidence. The panel took into account that the charges involved a large number of vulnerable residents who had not received their medication and potential risk of harm to which they were exposed. The panel considered that public safety must be at the forefront of its decision making and although granting the application would cause some unfairness to Mr Wilson, given the nature of the charge and the allegations within it, the issues of public interest and public safety outweighed any unfairness to him.

For these reasons the panel therefore decided to grant the application.

Decision to amend charge 4 under Rule 28

In considering the evidence but before reaching its decision on facts the panel decided of its own volition to propose an amendment to charge 4.

Original charge:

4) Between 26 April and 27 April 20187 stole 39 tablets of Co-codamol

Proposed charge:

4) Between 26 April and 27 April 20187 stole **30** tablets of Co-codamol

The panel did so on the basis that after cross-referencing the Co-codamol Check against the residents' MAR charts, it could only be certain that 30 tablets were unaccounted for.

The NMC did not object to the proposed amendment and submitted that there would be no injustice to the NMC as the substance of the charge remains the same. For these reasons it was submitted there would be no unfairness to Mr Wilson.

The panel accepted the advice of the legal assessor who again referred to Rule 28 and the approach to be taken by the panel when considering it.

Having examined the evidence in relation to charge 4 and for the reasons to be given in its determination on facts the panel determined it was relevant and fair to amend the charge as detailed above.

Decision on Service of Notice of Resuming Hearing (23 and 24 January 2020)

The panel adjourned part-heard prior to handing down any determinations in this case. The panel identified three days in which it could continue this case, 23 and 24 January 2020 and 6 February 2020. The panel resumed on 23 January 2020.

The panel was informed at the start of the resuming hearing that Mr Wilson was not in attendance and that written notice of this hearing had been sent to Mr Wilson's registered address by recorded delivery and by first class post on 19 December 2019. The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Hearing was delivered to Mr Wilson's registered address on 20 December 2019. It was signed for in the name of 'WILSON'.

The panel took into account that the notice letter provided details of the resuming hearing.

Mr Kennedy submitted the NMC had complied with the requirements of Rules 34(1) and 34(5) and 32(3) of the Rules.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Wilson had been served with notice of the resumed hearing in accordance with the requirements of Rules 34(1) and 34(5) and 32(3) of the Rules.

Application to adjourn the hearing

As part of the Notice of Hearing bundle the panel noted the communications in form of an email exchange between the NMC and Mr Wilson. In his reply to the notice of hearing Mr Wilson in an email dated 7 January 2020 stated:

'I have been suffering with [PRIVATE] and [PRIVATE] and also [PRIVATE] which has effected me greatly and have not been able to engage with the process as much as i could have. I would ask if there is any chance i could have the peocess [sic] deffered at all ? I do have representation from the rcn but have to get in touch with them regarding this. I would like to engage and speak on my behalf however right now due to my circumstances i feel as if i cannot prepare myaelf correctly for a defence againat the allegatations. Could you please email me back regarding the options, thanks kenneth. P.s. if you would rather a phone call let me know and i will provide details for this.' [sic]

The NMC case officer responded to this email on 9 January 2020 stating the following:

'In order to request a postponement to the hearing you would need to provide us with up-to-date medical certificates from your practitioner which state that you are not fit to participate in proceedings.

However, please be aware that we would oppose any request for a postponement.

We would encourage you at this point to attend the hearing via video-link or telephone if you feel you cannot attend in person.'

The NMC case officer sent further emails to Mr Wilson requesting a reply on 20 January 2020, 21 January 2020 and again on the 22 January 2020. These included further requests for medical evidence. The email dated 21 January 2020 included *'your position regarding medical evidence and if you will be providing any medical evidence.'* The email dated 22 January 2020 included *'Please be aware that as per our email dated 9*

January 2020 we will be opposing any requests for a postponement without update to medical certificates and or evidence.' The case officer also requested Mr Wilson's preferred telephone number so that the panel or she could contact Mr Wilson during hearing and again encouraged Mr Wilson to attend the hearing via video-link or telephone.

Mr Wilson replied on the 22 January stating: *'yes i am requesting a postponment. My phone number is [...] you can call me on that number if needed.'*

The panel determined that, in the circumstances, it would be helpful and fair to hear from Mr Wilson directly regarding his request for an adjournment and directed the Panel Secretary to attempt to contact him by telephone. However, it became apparent that Mr Wilson had not provided a complete telephone number as a result of which the Panel Secretary contacted the case officer to email Mr Wilson to inform him that the panel wished to speak to him by telephone. This email, dated 23 January 2020 at 10:34am stated:

'Good morning, and please be aware that unfortunately you have not provided us with your correct mobile number.

The number you have provided is one digit sort [sic]. Could you please provide me with your correct contact number as soon as possible?

The panel wish to get in contact with you today regarding your resuming hearing, and will reconvene at 12:00 where they will make a decision on whether to proceed in your absence or not.

Given this, can you please get in contact with me as soon as possible?

Please find my direct dial below.'

The panel adjourned the hearing until 12pm to allow Mr Wilson time to respond to the case officer. When the hearing reconvened at 12pm there had been no contact from Mr Wilson.

Given the time that had been provided to Mr Wilson and his lack of response the panel decided to continue with its consideration of the application to adjourn based on the written information contained in Mr Wilson's email dated 7 January 2020.

Mr Kennedy advised the panel that the NMC opposed the application to adjourn the hearing. He stated that Mr Wilson had been aware of the hearing resuming since 20 December 2019 and he had a duty to engage with his regulator. Mr Kennedy submitted that Mr Wilson had had the opportunity to provide further evidence to support his application since 7 January 2020. Mr Kennedy informed the panel that Mr Wilson had been asked in several emails from the NMC to provide further information but had failed to do so. Mr Kennedy submitted that the panel had therefore very limited information from Mr Wilson and nothing to substantiate the health issues to which he referred. Mr Kennedy further submitted that it was in the interests of justice to proceed in Mr Wilson's absence given the need to deal with the case expeditiously, which was now into the ninth day of the hearing.

Mr Kennedy submitted that recent case law makes it very clear that when an adjournment is requested by the registrant the onus is on the registrant to provide evidence to support such an application. He referred the panel to the case of *GMC v Hayat [2018] EWCA Civ 2796*, as authority for this proposition.

The panel accepted the advice of the legal assessor who reminded the panel of the need to consider fairness to both parties and the public interest with reference to the history of this case and its proceedings.

The panel took into account all the information before it and decided to refuse the application. It noted that Mr Wilson had given some information as to why he would like to adjourn the hearing but had not expanded upon this. It considered that Mr Wilson had been given ample opportunity to provide further information to support his application to adjourn but he had not provided any additional evidence. The panel also took into account that Mr Wilson was again given a further opportunity today (the morning of the 23 January 2020) to participate via telephone link and speak to the panel, but despite efforts by the NMC he had failed to respond to these request to do so. The panel

considered that it therefore did not have any independent or more cogent evidence to support Mr Wilson's application to adjourn. In these circumstances the panel considered that, having regard to the public interest and the interests of justice, it did not accede to Mr Wilson's application.

For all the reasons given above the panel determined to refuse the application for an adjournment.

Decision on proceeding in the absence of the Registrant

The panel next considered whether it should proceed in the absence of Mr Wilson.

The panel had regard to Rule 21 (2) which states:

(2) Where the registrant fails to attend and is not represented at the hearing, the Committee—

- (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;*
- (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or*
- (c) may adjourn the hearing and issue directions.*

Mr Kennedy invited the panel to continue to proceed with the hearing in the absence of Mr Wilson on the basis that Mr Wilson continued to voluntarily absent himself from these proceedings. Mr Kennedy submitted that Mr Wilson had had ample opportunity to engage in the process and that there had been a lack of meaningful communication from him. Mr Kennedy referred the panel to his submissions in relation to Mr Wilson's application to adjourn and its decision to refuse that application. He submitted that it

was in the interests of justice to proceed in Mr Wilson's absence and that it was also in the public interest to do so.

The panel accepted the advice of the legal assessor, who reminded the panel of the advice he had given on day one of the hearing.

Having carefully considered matters, the panel decided to proceed in the absence of Mr Wilson. In reaching this decision, the panel considered the submissions of the case presenter and the advice of the legal assessor. It reminded itself of its reasons to not grant Mr Wilson's application for adjournment. The panel noted that Mr Wilson had sufficient notice of today's hearing (23 January 2020) proceeding and he had been afforded several opportunities to participate in this hearing. The panel also noted that Mr Wilson had not engaged today, despite being given the opportunity to do so. The panel took into account the length of this hearing and the strong public interest that exists in the expeditious disposal of this case. The panel concluded that there was nothing else to suggest that giving Mr Wilson further time to respond would result in his attendance or engagement. It therefore concluded that he continued to voluntarily absent himself from these proceedings.

In all the circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Wilson. The panel will draw no adverse inference from Mr Wilson's absence and will proceed to determine the case with the utmost care and caution. The panel noted that the NMC will continue to advise Mr Wilson of the outcome of the panel's deliberations and it was open to Mr Wilson to engage with the NMC or the panel at any further stage of this hearing.

Background

The charges arose whilst Mr Wilson was employed as a registered nurse at Heathfield House Care Home (Heathfield). Heathfield is a residential care home consisting of 88 beds over two floors and is made up of two units on each floor, plus a small unit used for respite care. During a night shift there would be two registered nurses, one assigned to the first floor and one to the ground floor, each supported by between six and ten

care assistants. Each unit had its own lockable treatment room which was used to store medication in separately locked trolleys and cupboards. The nurses on duty were responsible for the treatment rooms in their units and carried the appropriate keys for these rooms.

In March 2017 Ms 1, Heathfield House Manager, conducted a medication audit and ascertained that a number of Dihydrocodeine tablets were missing.

On 25 April 2017 it was discovered that 30 Co-codamol tablets were missing from the returned medications box waiting to be collected by Boots. On the 26, 27 and 28 April 2017 three medication spot checks were carried out by specifically looking at the stock of Co-codamol. These checks revealed several discrepancies in the number of Co-codamol tablets recorded as administered to various residents. It was considered that a large number of tablets were unaccounted for. An internal investigation was carried out and all staff were interviewed, including Mr Wilson.

Mr Wilson worked at Heathfield until 15 May 2017.

In July 2018 Mr Wilson applied for a position as a staff nurse at Seabank Care Home (Seabank). Seabank was a 60 bed care home over three floors with two registered nurses on duty during the nightshift. One nurse was responsible for the ground floor and another nurse for the middle floor. They each had responsibility for their own residents on the top floor.

It is alleged that on 3 July 2018 Mr Wilson gave inaccurate information in parts of his written application form and during his interview.

Mr Wilson started in the role as a registered nurse with Seabank and commenced his first night shift on 9 July 2018. He worked at Seabank until 15 August 2018.

Decision on the findings on facts

In reaching its decisions on the facts, the panel considered all the evidence adduced in this case together with the submissions made by Mr Kennedy, on behalf of the NMC.

The panel heard and accepted the advice of the legal assessor. In relation for the test for dishonesty, he referred the panel to the test of *Ivey v Genting Casinos [2017] UKSC 67*. In considering issues of integrity he referred the panel to the case of *Wingate v SRA [2018] EWCA Civ 366*.

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 the facts will be found proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

At the outset of the hearing Mr Kennedy outlined the background of Mr Wilson's case and provided some context to the allegations.

The panel has drawn no adverse inference from the non-attendance of Mr Wilson.

The panel heard oral evidence from six witnesses on behalf of the NMC.

Ms 6 had been due to give live evidence by videolink to this hearing. Subsequently Mr Kennedy advised that due to extenuating personal circumstances, she was unable to do so. In the circumstances the legal assessor advised the panel to disregard Ms 6's witness statement in its entirety.

The witnesses called on behalf of the NMC were:

Ms 1 – *Manager at Heathfield at time of allegations*

Ms 2 – *Charge Nurse at Heathfield at time of allegations*

Ms 3 – *Deputy Manager at Seabank at time of allegations*

Mr 4 – *Registered Nurse at Seabank at time of allegations*

Ms 5 – *Compliance Officer at Heathfield at time of allegations*

Ms 7 – *Current Manager at Templeton*

The panel first considered the overall credibility and reliability of all of the witnesses it had heard from.

The panel considered Ms 1 to be a credible and generally reliable witness. She admitted that there were certain things she could not explain but did her best to assist the panel during the course of her evidence. The panel noted there were some discrepancies between her evidence and that of Ms 5, who carried out the Co-codamol Check with her. In these instances the panel preferred the evidence of Ms 5 to Ms 1 for the reasons given below.

The panel considered Ms 2 to be a credible and reliable witness. She was consistent and clear in her evidence which she gave in a straightforward and helpful manner.

The panel considered Ms 3 to be a clear, credible and reliable witness. She did her best to assist the panel and was consistent in her evidence. She gave her evidence in a forthright manner and was very candid in accepting that some of the documentary evidence could not be attributed to Mr Wilson.

The panel considered Mr 4 to be clear, credible and reliable. His evidence was limited in scope and related to one specific charge, namely charge 10.

The panel considered Ms 5 to be clear, credible and reliable. She admitted when she did not know the answer, but was consistent and precise in giving her evidence in assisting the panel in understanding the Co-codamol Check which she had prepared. Where Ms 5's evidence differed from Ms 1's the panel preferred Ms 5's more compelling account given the detail she was able to provide.

The panel considered Ms 7 to be credible and reliable in her brief evidence. She spoke to charges 5a and 8a and provided the information that had been made available to her from the archived employment records of Templeton.

The panel considered each charge and made the following findings:

That you, a registered nurse, whilst employed at Heathfield House Care Home;

Charge 1:

- 1) Between 20 March 2017 and 24 March 2017, stole 20 tablets of Dihydrocodeine.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 1's witness statement in which she stated:

'The nurse on duty for that unit would have responsibility for the key for the treatment rooms. Although it has since changed, each treatment room had the same lock at this time so each key could open each treatment room.'

Ms 1 confirmed this in her oral evidence.

The panel considered the rota for the week commencing the 20 March 2017 which confirmed that Mr Wilson was working that week. The panel also took into account Ms 1's oral evidence in which she admitted that there was no evidence that Mr Wilson had stolen the 20 tablets of Dihydrocodeine.

The panel determined that, at the material time, several staff members could have had access to the treatment room from which the Dihydrocodeine tablets were missing.

The panel was not satisfied that there was any evidence before it that between 20 March 2017 and 24 March 2017 that Mr Wilson stole 20 tablets of Dihydrocodeine.

Accordingly this charge is found not proved.

Charge 2:

2) Between 24 March 2017 and 27 March 2017, stole 9 tablets of Dihydrocodeine.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 1's oral evidence and witness statement along with the weekly rotas for the weeks commencing 20 March 2017 and 27 March 2017 at Heathfield.

The panel reminded itself that the lock to the treatment rooms could be accessed by all the nurses on duty, as confirmed by Ms 1 in her oral evidence. It considered the rotas for the weeks commencing the 20 March 2017 and 27 March 2017 which confirmed that Mr Wilson was working during those weeks. The panel also took into account Ms 1's oral evidence in which she admitted that there was no evidence that Mr Wilson had stolen the 9 tablets of Dihydrocodeine.

The panel reminded itself of its findings regarding charge 1.

The panel was not satisfied that there was any evidence before it that between 24 March 2017 and 27 March 2017 Mr Wilson stole 9 tablets of Dihydrocodeine.

Accordingly this charge is found not proved.

Charge 3:

3) Between 24 April and 25 April 2017, stole 30 tablets of Co-codamol.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 1's, Ms 2's and Ms 5's oral evidence and witness statements. In particular the panel noted Ms 1's witness statement in which she states:

'On 25 April 2017, two staff members, [Ms 5] and [Ms 2] carried out a check of stock and paperwork in relation to drugs ordering. They informed me that they had seen a large amount of co-codamol [sic] on the returns and so decided to check it. The entry related to what should have been 200 tablets but they discovered that 30 tablets were missing and they reported this to me. This happened while the police were in the home so I reported this directly to them. By this time, I had already ensured that security measures had been improved and each treatment now had its own lock and key. This meant that only the nurse on duty would have access to the treatment rooms on their allocated floor.'

Ms 1, Ms 2 and Ms 5 confirmed this in their oral evidence. The panel next looked at the 'Destroyed or Returned medication' form (the Form) and the entry dated '24/4/17'. This entry had a signature next to it, which Ms 1 confirmed in her oral evidence as Mr Wilson's signature. The panel compared this to the signatures in the MAR chart and determined that these corresponded with Mr Wilson's signature on the 'Destroyed or Returned medication' form. The form documented that there was a running balance of 200 tablets for Resident A.

Next the panel took into account the rota sheets for the week commencing the 24 April 2017 and from these determined that Mr Wilson was working on 24 April 2017, but not on 25 April 2017.

The panel then considered when the medication count was carried out by Ms 2 and Ms 5. The panel noted that, while all the witnesses agreed that the check was carried out on the 25 April 2017, they could not agree on what time of day this check took place.

The panel also took into account Ms 5's evidence in which she stated that other staff would have had access to the locked treatment room during the course of their shift. Given the differing witness accounts of when Boots may have collected the medicines returns box, the panel was unable to determine when this box was collected nor who may have had access to the box in the intervening period of time.

The panel determined that it was not clear at what time the medication count took place and that this may have been some time after Mr Wilson finished his shift. It therefore determined that the medication box could have been accessed by other members of staff. For this reason the panel was not satisfied, on the balance of probabilities, that Mr Wilson was responsible for this theft.

Accordingly this charge is found not proved.

Charge 4:

4) Between 26 April 2017 and 27 April 2017 stole 30 tablets of Co-codamol.

This charge is found proved.

In reaching this decision, the panel took into account Ms 1's, Ms 5's and Ms 2's oral evidence and written statements along with the rota sheets, the Co-codamol checklist and the Medication Administration Record (MAR) charts.

Both Ms 1 and Ms 5 confirmed that they carried out a check of the Co-codamol before and after Mr Wilson's shift. The panel cross-referenced the MAR charts against the Co-codamol checklist and determined that a total of 30 tablets were not accounted for.

The panel considered the rota sheet for the week commencing the 24 April 2017 and determined that Mr Wilson was the only nurse on duty on that shift in the upstairs unit. The panel further considered Ms 1's statement that at the material time:

'I had already ensured that security measures had been improved and each treatment now had its own lock and key. This meant that only the nurse on duty would have access to the treatment rooms for their allocated floor'.

The panel was satisfied that the only nurse who had access to the treatment room at the material time was Mr Wilson. Therefore, on the balance of probabilities it determined that between 26 April 2017 and 27 April 2017 Mr Wilson stole 30 tablets of Co-codamol.

Accordingly this charge is found proved.

Charge 5:

That you, a registered nurse, whilst seeking employment and/or during your employment at Seabank Care Home;

Charge 5a:

- 5) On or around 3 July 2018 submitted an application form to Seabank Care Home;
 - a) Stating that you had been employed as a Deputy Manager at Templeton House between January and March 2015.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's written statement and oral evidence along with a copy of Mr Wilson's application form for the position of staff nurse at Seabank.

Ms 3 confirmed that Mr Wilson was invited to interview for the position of staff nurse at Seabank on 3 July 2018. She told the panel that prior to his interview he had been asked to complete an application form which he then took with him into the interview. Ms 3 confirmed that the application form before the panel was the same one that Mr Wilson had filled in on 3 July 2018. When questioned, Ms 3 advised the panel that candidates would receive as much time as they required to fill in the application form.

The panel had regard to the application form. The panel noted that it was dated 3 July 2018 and was signed by Mr Wilson. The panel noted that within the application form, under the section for previous employment details Mr Wilson had completed the form as: *'Employers Name and Address 'Templeton House', Post held 'Deputy Manager... for 3 months 2015 Jan to March'*.

The panel therefore concluded that on or around 3 July 2018 Mr Wilson submitted an application form to Seabank Care Home stating that he had been employed as a Deputy Manager at Templeton House between January and March 2015.

Accordingly this charge is found proved.

Charge 5b:

- 5) On or around 3 July 2018 submitted an application form to Seabank Care Home;
 - b) In which you did not disclose that you had a previous conviction.

This charge is found proved.

In reaching this decision, the panel took into account Mr Wilson's application form for the position of staff nurse at Seabank.

The panel noted that the section relating to previous convictions had not been completed. The panel noted the evidence of Ms 3 that candidates would receive as much time as necessary to complete their application forms. The panel was of the view that, even if the application form had been completed in a hurry, it would not have taken much time for Mr Wilson to circle one of the answers 'yes' or 'no' in the question relating to any previous convictions.

The panel therefore concluded that on or around 3 July 2018 Mr Wilson submitted an application form to Seabank Care Home in which he did not disclose that he had a previous conviction.

Accordingly this charge is found proved.

Charge 5c:

- 5) On or around 3 July 2018 submitted an application form to Seabank Care Home;
 - c) In which you did not confirm that Argus Care Group could obtain a police

check from Disclosure Scotland.

This charge is found proved.

In reaching this decision, the panel took into account Mr Wilson's application form for the position of staff nurse at Seabank.

The panel noted that the question in the application form, relating to obtaining a police check from Disclosure Scotland, had not been answered by Mr Wilson. Again the panel noted the evidence of Ms 3 that candidates would receive as much time as necessary to complete their application forms. The panel was again of the view that, even if the application form had been completed in a hurry, it would not have taken much time for Mr Wilson to circle one of the answers 'yes' or 'no' in the question relating to obtaining a police check from Disclosure Scotland.

The panel therefore concluded that on or around 3 July 2018 Mr Wilson submitted an application form to Seabank Care Home in which he did not confirm that Argus Care Group could obtain a police check from Disclosure Scotland.

Accordingly this charge is found proved.

Charge 6:

6) Your actions in charge 5 a) above were dishonest, in that you intended to mislead
your prospective employer.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Ms 7's evidence along with the application form Mr Wilson submitted to Seabank.

Ms 3 confirmed in her oral evidence that Mr Wilson had told her at his interview that he was employed as a Deputy Manager at Templeton.

In her oral evidence Ms 7 told the panel that she had not been employed at Templeton at the time Mr Wilson was employed and that she did not know him. Ms 7 told the panel that she had been contacted by the NMC and asked to provide information as to when Mr Wilson had been employed at Templeton and what position he had been employed in. Ms 7 approached her administrator who went back through the archives to find the relevant information. Ms 7 confirmed to the panel that employment records showed that Mr Wilson had worked as a staff nurse at Templeton and gave the dates of his employment there as 10 November 2015 to 15 January 2016. Ms 7 told the panel that there was no record that Mr Wilson had worked as a deputy manager at Templeton during that period. In answer to panel questions Ms 7 explained that, had Mr Wilson 'acted up' as a deputy manager during the time he was employed at Templeton, a new employment record for the post of 'Deputy Manager' would have been created which showed this. Ms 7 confirmed there was no such record relating to Mr Wilson.

In determining the question of dishonesty the panel considered the test as set out in the case of *Ivey* which, at Paragraph 74, states:

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

In applying the factors as set out in *Ivey* the panel reminded itself of its findings at charge 5 a) and that it had found as a matter of fact that Mr Wilson had submitted an

application form to Seabank Care Home stating that he had been employed as a Deputy Manager at Templeton House between January and March 2015.

The panel determined that there was no evidence that Mr Wilson had been employed at Templeton as a deputy manager. The panel was of the view that Mr Wilson would have been aware that he was not employed in the capacity of a deputy manager at Templeton and that his intention, by putting this information on his application form, was to mislead a prospective employer. The panel noted that Ms 3 stated that Mr Wilson had confirmed this information during his interview with her.

The panel determined that an ordinary and decent person would consider Mr Wilson's actions in providing incorrect information regarding a previous job role at his interview, in the manner in which he did, as dishonest.

The panel therefore determined that Mr Wilson was dishonest in that he deliberately intended to mislead his prospective employer by his actions detailed in charge 5a.

Accordingly this charge is found proved.

Charge 7:

- 7) Your actions in charge 5 b) & c) lacked integrity, in that you did not disclose important information to your prospective employer.

This charge is found not proved.

In reaching this decision, the panel took into account its findings on charges 5 b) and c), Ms 3's oral evidence and her written statement.

The panel noted that Ms 3 stated in her oral evidence that she had asked Mr Wilson in the interview whether he had any previous convictions. She stated that Mr Wilson told her that he had a road traffic conviction. The panel considered the application form which was filled in, signed and dated by Mr Wilson, and noted that the penultimate page

of the form was not completed at all. The panel concluded that although Mr Wilson had not disclosed any previous convictions on the application form, he told Ms 3 about a conviction during the interview.

The panel also considered Ms 3's oral evidence in which she stated that Mr Wilson told her during the interview that he was not able to find his 'Disclosure Scotland PVG Scheme Record' (PVG) which was required for police checks to be carried out. Ms 3 confirmed that Mr Wilson subsequently provided the PVG reference number to Seabank. The panel considered that in providing his PVG reference number this would have enabled the appropriate police checks to be carried out.

The panel therefore determined that Mr Wilson had advised Ms 3 at interview of his previous conviction and had subsequently provided his PVG reference number. The panel concluded that on this basis he did not lack integrity.

Accordingly this charge is not found proved.

Charge 8a:

- 8) On or around 3 July 2018 during your interview at Seabank Care Home, you;
 - a) Stated that you had been employed as Deputy Manager at Templeton House.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 3.

Ms 3 told the panel in her oral evidence that during his interview Mr Wilson confirmed that he had been employed at Templeton as Deputy Manager. The panel noted that this was consistent with her witness statement which states '*[Mr Wilson] also stated that he had previously been employed as Deputy Manager at Templeton...*'

Having found Ms 3 to be a credible and reliable witness the panel accepted her evidence. The panel also noted that Mr Wilson completed the application form whilst at Seabank immediately before his interview with Ms 3.

The panel therefore determined, on the balance of probabilities, that on or around 3 July 2018 during his interview at Seabank, Mr Wilson stated that he had been employed as Deputy Manager at Templeton.

Accordingly this charge is found proved.

Charge 8b:

- 8) On or around 3 July 2018 during your interview at Seabank Care Home, you;
- b) Stated that you had put in your resignation notice to Heathfield House Care Home in May 2017.

This charge is found proved.

In reaching its decision, the panel took into account the evidence of Ms 3 along with Mr Wilson's application form for the position of staff nurse at Seabank dated 3 July 2018 which stated as '*Reason for leaving: Left for job closer to home*'.

Ms 3 told the panel in her oral evidence that during his interview Mr Wilson told her that he had resigned from Heathfield in May 2017. The panel noted that this was consistent with her witness statement which stated '*[Mr Wilson] added that he had put his notice in to last employer, Heathfield House, in May 2017.*'

Having found Ms 3 to be a credible and reliable witness the panel accepted her evidence.

Ms 1 was clear in her oral evidence to the panel that Mr Wilson was dismissed from his position at Heathfield. This was consistent with her witness statement, which stated: '*it*

was agreed that [Mr Wilson] would be dismissed. He was notified of this in writing...’ and ‘he was notified by the Director over the phone of his dismissal’.

The panel had regard to the letter of dismissal from Heathfield addressed to Mr Wilson and dated 12 May 2017 in which it stated *‘you are summarily dismissed as of the 15.05.17’.*

For these reasons, the panel was satisfied that Mr Wilson had been dismissed from his position at Heathfield and that he had been informed by letter and by telephone call of this in May 2017.

The panel therefore determined, on the balance of probabilities, that on or around 3 July 2018 during his interview at Seabank Mr Wilson stated that he had put in his resignation notice to Heathfield in May 2017.

Accordingly this charge is found proved.

Charge 9:

- 9) Your actions in charges 8 a) & b) above were dishonest, in that you intended to mislead your prospective employer.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Ms 1, Ms 3 and Ms 7 along with Mr Wilson’s application form for the position of staff nurse at Seabank dated 3 July 2018.

The panel reminded itself of the factors to consider when determining a charge of dishonesty as set out in the case of *Ivey* and detailed in its findings in charge 6 above.

The panel was satisfied that Mr Wilson was employed at Templeton as a staff nurse but was never employed as a deputy manager. The panel considered that Mr Wilson knew this to be untrue when he made his statement to Ms 3 at his interview on 3 July 2018.

As detailed in its finding in charge 8 b) the panel was also satisfied that Mr Wilson had been dismissed from his position at Heathfield and that he had been informed by letter and by telephone call of this in May 2017.

In Mr Wilson's application form for Seabank, the panel noted that under previous employment history he clearly stated his reason for leaving Heathfield House as '*left for job closer to home*'. The panel considered that this gave the clear impression that he had left this role of his own volition rather than being dismissed. The panel determined that Mr Wilson knew this to be untrue when he completed the form.

The panel further determined that an ordinary and decent person would consider that Mr Wilson's actions in providing this information as he did, was dishonest.

The panel therefore determined that Mr Wilson was dishonest in that he deliberately intended to mislead his prospective employer by his actions detailed in charges 8a and 8b.

Accordingly this charge is found proved.

Charge 10a:

- 10) During your night shift between 9 & 10 July 2018;
 - a) Did not administer Co-codamol to Resident B.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the Adult Protection/Adult Concern Referral Form (APR) for Resident B.

The panel was informed that Seabank was a sixty bedded home arranged over three floors. The residents of the ground floor and the first floor had separate teams of staff caring for them and those teams would also care for a small number of patients on the top floor depending on which team they had been allocated to. On the night shift there would be one registered nurse on the ground floor and one registered nurse on the first floor. The two nurses worked entirely separately and did not cover each other in any capacity.

Ms 3 and Mr 4 told the panel that their MAR charts were supplied by Boots and that, as they were taken to these in the hearing bundle, they were similar to the ones used by Heathfield, where Mr Wilson had previously worked. Therefore, the panel considered that Mr Wilson should have been familiar with the type of MAR charts in use at Seabank.

Mr 4 told the panel that he worked the day shift at Seabank on 10 July 2018 and received a handover that morning from Mr Wilson who had been on the night shift. Mr 4 told the panel that Mr Wilson had not mentioned any issues or concerns regarding medication at this handover. Mr 4 informed the panel that when he started the morning medication round he noticed that there were gaps in some of the residents MAR charts. He told the panel that this indicated that the medication had either not been administered or had been administered but had not been signed for. Mr 4 confirmed that he had done a physical count of the tablets for each of the residents affected and based on number of tablets found, concluded that these residents had not been given their medication by the night shift nurse who was Mr Wilson. Mr 4 reported his concerns to Ms 3.

Ms 3 told the panel that Mr Wilson carried out his first night shift at Seabank on 9 July 2018. She told the panel that when she arrived for work on the morning of 10 July 2018 Mr 4 alerted her to the fact that several residents had not received their medication which had been due the previous night. As a result of this Ms 3 completed an APR form for each of the residents affected including Resident B. Ms 3 confirmed that Mr Wilson

had been the nurse responsible for administering this medication. Ms 3 took the panel through each of the APR forms she completed on 10 July 2018.

The panel noted that the APR form for Resident B was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson's name was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '*Resident [B] appears not to have been given her Co-codamol therapy as prescribed due to a nursing error...*'.

The panel was satisfied that Mr Wilson was working on the night shift between 9 and 10 July 2018. The panel noted that the APR form was completed by Ms 3 at the time of the incident and was satisfied that it represented an accurate record of the concerns identified by Mr 4 and Ms 3.

Considering all of the above the panel determined, on the balance of probabilities, that on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Co-codamol to Resident B.

Accordingly this charge is found proved.

Charge 10b:

- 10) During your night shift between 9 & 10 July 2018;
 - b) Did not administer Senna to Resident C.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident C. The panel had regard to its considerations at charge 10a above.

The panel noted that the APR form for Resident C was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '*Resident [C] appears not to have been given her Senna as prescribed due to a nursing error ... This error is consistent with previous omissions which appear to have taken place on 9th (first floor unit) – being the first date of the cycle and a new nurse on shift we have identified several errors which have previously been referred*'.

Considering all of the above, and for the same reasons as given at charge 10 a) the panel determined, on the balance of probabilities, that on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Senna to Resident C.

Accordingly this charge is found proved.

Charge 10c:

- 10) During your night shift between 9 & 10 July 2018;
 - c) Did not administer Trazodone to Resident D.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident D.

The panel noted that the APR form for Resident D was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '*Resident [D] appears not to have been given his trazodone therapy as prescribed due to a nursing error... Writer will meet with staff nurse involved this evening for an explanation as to how this was allowed to happen/why the drugs were given and not signed for if this is in fact the case*'.

Considering all of the above, and for the same reasons as given in charges 10a) and 10b) above, the panel determined on the balance of probabilities that on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Trazodone to Resident D.

Accordingly this charge is found proved.

Charge 10d:

- 10) During your night shift between 9 & 10 July 2018;
 - d) Did not administer Lactulose to Resident E.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident E.

The panel noted that the APR form for Resident E was completed by Ms 3 on 10 July 2018 and that the date of the incident on the form was noted as the 8 July 2018. The panel had regard to the '*Details of Concern*' section of the form in which it stated; '[Resident E] *tea time aperients (Lactulose and Senna) were omitted on Friday and Saturday per medicines auditing.*' In discussion during Ms 3's oral evidence it transpired that these days related to the 6 and 7 July 2018. These dates did not correspond to the dates charged.

The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson was named. However, the panel also had regard to Ms 3's oral evidence where she stated that Mr Wilson's night shift on the 9 July 2018 was his first unsupervised shift. She pointed out that although the details of person reported to be causing harm states Mr Wilson, he would have been supervised during this shift on 8 July 2018. Ms 3 stated that the responsibility for medication administration would have been with the supervising nurse and that in this instance she could not confirm that Mr Wilson was responsible for the medication error.

Having regard to the above the panel was not satisfied that, on the basis of the evidence that Mr Wilson was responsible for Resident E not receiving Lactulose.

Accordingly this charge is found not proved.

Charge 10e:

- 10) During your night shift between 9 & 10 July 2018;
 - e) Did not administer Senna to Resident E.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident E.

For the same reasons as given at charge 10 d) the panel was not satisfied on the basis of the evidence before it that Mr Wilson was responsible for Resident E not receiving Senna.

Accordingly this charge is found not proved.

Charge 10f:

- 10) During your night shift between 9 & 10 July 2018;
 - f) Did not administer Trazodone to Resident F.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident F.

The panel noted that the APR form for Resident F was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the

section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '[Resident F] *appears not to have been given his Trazodone last night (per tablet count)... Writer will be staying on this evening to discuss the omissions with the nurse involved as it was the first day of the drug cycle, several items appear to have been involved (see previous notification) and I will have to provide support to the staff member to ensure this does not happen again*'.

Considering all of the above, and for the same reasons that can be found under 10a, 10b and 10c, the panel determined, on the balance of probabilities, that on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Trazodone to Resident F.

Accordingly this charge is found proved.

Charge 10g:

- 10) During your night shift between 9 & 10 July 2018;
 - g) Did not administer Gabapentin to Resident G.

This charge is found not proved.

In reaching this decision, the panel took into account Ms 3's oral and written witness evidence together with the APR for Resident G.

The panel noted that the APR form for Resident G was completed by Ms 3 on 9 July 2018 and that the date of the incident was 6 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' it states '*n/a*' and in the section '*Relationship to Adult*' it states '*Nursing Staff*'. The panel also had regard to Ms 3 oral evidence in which she stated that she could not confirm whether Mr Wilson was on duty on that shift on 6 July 2018. She also stated that on any shift prior to 9 July 2018 Mr Wilson would have been supervised and that the responsibility for medication administration would have been with the supervising nurse.

Having regard to the above, the panel on the balance of probabilities, could conclude that Mr Wilson was responsible for Resident G not receiving Gabapentin.

Accordingly this charge is found not proved.

Charge 10h:

- 10) During your night shift between 9 & 10 July 2018;
 - h) Did not administer Atorvastatin to Resident H.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident H.

The panel noted that the APR form for Resident H was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '[Resident H] *appears not to have been given her Atorvastatin 40mg last night (per tablet count)...*'.

Considering all of the above, and for the same reasons given in charges 10a, 10b, 10c and 10f, the panel determined, on the balance of probabilities, that on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Atorvastatin to Resident H.

Accordingly this charge is found proved.

Charge 10i:

- 10) During your night shift between 9 & 10 July 2018;
 - i) Did not administer Trazodone to Resident I.

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's and Mr 4's oral and written witness evidence together with the APR for Resident I.

The panel noted that the APR form for Resident I was completed by Ms 3 on 10 July 2018 and that the date of the incident was 9 July 2018. The panel noted that in the section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*details of concern*' section of the form in which it is stated: '*Resident [I] appears not to have been given her Trazodone therapy as prescribed ...*'.

In considering all of the above, and for the same reasons as in charges 10a, 10b, 10c, 10f and 10h the panel determined, that on the balance of probabilities, on the night shift between 9 and 10 July 2018 Mr Wilson did not administer Trazodone to Resident I.

Accordingly this charge is found proved.

Charge 11a:

- 11) During your shift on 14 August 2018;
 - a) Did not administer Stanek to Resident J

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's oral and written witness evidence together with the APR form for Resident J.

Ms 3 told the panel that on 14 August 2018 a member of staff had brought to her attention that a resident was missing his medication and that Mr Wilson was the nurse responsible.

The panel noted that the APR form for Resident J was completed by Ms 3 on 16 August 2018 and that the date of the incident was 14 August 2018. The panel noted that under the section '*Details of person reported to be causing harm*' Mr Wilson was named. The panel had regard to the '*Details of concern*' section of the form in which it stated '*Resident [J] appears not to have been given his Stanek 100/25/200mg on Tuesday night. [Resident J] has capacity and when I spoke to him about it he stated "yeah I was one short"...[Resident J]'s Stanek is very important as it ensures his best level of mobility due to Parkinson's Symptoms. He appeared physically well yesterday and did not experience any falls*'.

The panel noted that the APR form was completed close to the time of the incident and was satisfied that it represented an accurate record of the concerns identified by Ms 3. It believed her to be a credible witness and considered that she had been proactive in recording the incident.

Considering all of the above the panel determined on the balance of probabilities, that during his shift of 14 August 2018 Mr Wilson did not administer Stanek to Resident J.

Accordingly this charge is found proved.

Charge 11b:

- 11) During your shift on 14 August 2018;
 - b) Incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg

This charge is found proved.

In reaching this decision, the panel took into account Ms 3's oral and written witness evidence together with a Critical Incident Report Form completed on 21 August 2018, MAR charts and APR for Resident K.

Ms 3 told the panel that, after she had dismissed Mr Wilson as she considered him 'too much of a risk', she learned of a further medication error. This was reported to her by the night shift staff. Ms 3 explained that the '*Lorazepam tablets for this patient were already halved and so [Mr Wilson] must have given the patient two half tablets each night*'. Ms 3 told the panel that this was discovered by the night shift on their nightly stock check.

The panel noted that the APR form for Resident K was completed by Ms 3 on 21 August 2018 and that the date of the incident was 14 August 2018. The panel noted that although the section '*Details of person reported to be causing harm*' it stated '*n/a*' it states in the '*give details of harm*' section:

'Reported by night staff on 21/8/18 that a medication error has occurred with [Resident K] lorazepam medication on 14/8/18 and also on 15/8/18. This has been picked up when staff on night shift have been carrying out their nightly stock check. [Resident K] is prescribed lorazepam tablets 1mg, half a tablet to be taken at night time (already halved). On the 13/8/18 the stock check was 10 tablets remaining. The following night (14/8/18) it appears that staff nurse Kenny Wilson has given a 1mg tablet to be taken instead of half, as the count is 9 tablets after administering... Staff nurse Kenny Wilson does not work within the care home anymore.'

In her oral evidence Ms 3 confirmed that Mr Wilson was on shift the nights of 14 and 15 August 2018.

The panel also noted the MAR chart for Resident K which clearly showed that the balance of tablets at the end of each of the night shifts on 14 and 15 August 2018 had reduced by one tablet instead of 0.5 tablets. Mr Wilson's signature appeared above each entry as confirmed by Ms 3.

The panel was satisfied that it was Mr Wilson who signed the MAR chart on the 14 and 15 of August 2018. The panel noted that the APR form was completed near the time of the incident and gave a detailed account of the incident.

Considering all of the above the panel determined, on the balance of probabilities, that on his shift on 14 August 2018 Mr Wilson incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg.

Accordingly this charge is found proved.

Charge 12a:

- 12) During your shift on 15 August 2018;
 - a) Incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg.

This charge is found proved.

In reaching its decision, the panel took into account Ms 3's oral evidence and written statement together with a Critical Incident Report Form completed on 21 August 2018 as well as the MAR charts and APR for Resident K.

The panel noted that the APR form for Resident K was completed by Ms 3 on 21 August 2018 and that the date of the incident was 14 August 2018. The panel noted that although the section '*Details of person reported to be causing harm*' it states '*n/a*' it states in the '*give details of harm*' section:

'Reported by night staff on 21/8/18 that a medication error has occurred with [Resident K] lorazepam medication on 14/8/18 and also on 15/8/18. This has been picked up when staff on night shift have been carrying out their nightly stock check. [Resident K] is prescribed lorazepam tablets 1mg, half a tablet to be taken at night time (already halved). On the 13/8/18 the stock check was 10 tablets remaining. The following night (14/8/18) it appears that staff nurse Kenny Wilson has given a 1mg tablet to be taken instead of half, as the count is 9 tablets after administering. The same thing has happened the following night (15/8/18) where it appears a 1 mg tablet has been given instead of half, as the

count is 8 tablets... staff nurse Kenny Wilson does not work within the care home anymore.'

For the same reasons given at charge 11b above, the panel determined that, on the balance of probabilities, that during his shift on 15 August 2018 Mr Wilson incorrectly administered 1mg Lorazepam to Resident K instead of half a tablet/0.5mg.

Accordingly this charge is found proved.

The panel adjourned part-heard prior to handing down any determinations in this case. The panel identified three days in which it could continue this case, 23 and 24 January 2020 and 6 February 2020. The panel resumed again on 6 February 2020.

Decision on Service of Notice of Resuming Hearing (6 February 2020)

The panel was informed at the start of the resuming hearing that Mr Wilson was not in attendance and that written notice of this hearing had been sent to Mr Wilson's registered address by recorded delivery and by first class post on 19 December 2019. The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Hearing was delivered to Mr Wilson's registered address on 20 December 2019. It was signed for in the name of 'WILSON'.

The panel took into account that the notice letter provided full details of the resuming hearing, which gave the specific dates, including 6 February 2020.

Mr Kennedy submitted the NMC had complied with the requirements of Rules 34(1) and 34(5) and 32(3) of the Rules.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Wilson had been served with notice of the resumed hearing in accordance with the requirements of Rules 34(1) and 34(5) and 32(3) of the Rules.

Application to adjourn the hearing

As part of the Notice of Hearing bundle the panel noted the communications in form of an email exchange between the NMC and Mr Wilson which had occurred since the hearing on 24 January 2020. In his reply to an email from the case officer informing him that the panel decided to proceed in his absence on the last occasion, Mr Wilson in an email dated 2 February 2020 stated:

'Shona sorry but just getting a chance to email. [PRIVATE] I wanted to call with an update on things etc or to see about being able to participate at my hearing via phone. But this will not be possible due to circumstances and dont know what can be done to postpone things ? Any evidence you may require [PRIVATE] can be provided. However email when you can. Thanka kenneth.' [sic]

The panel noted that the NMC requested further evidence [PRIVATE] on 3 February 2020 via email, telephone call and text message, and again on 5 February 2020, again via email, telephone call and text message. The panel noted that Mr Wilson stated in his email above that he would not be available via telephone due the current circumstances he described.

Mr Kennedy reminded the panel of its findings regarding the application to adjourn on 23 January 2020. He submitted that, since the email dated 2 February 2020, Mr Wilson had been asked on several occasions and via several mediums to get in touch with the NMC, but had not responded. He submitted that the NMC had done everything in its power to engage Mr Wilson in the proceedings, but that he had not responded in any meaningful way. Mr Kennedy further submitted that Mr Wilson has had ample opportunity to provide evidence since he was requested to do so by the NMC. He submitted that there is no evidence before the panel today to allow it to make an informed decision on adjourning the hearing. In these circumstances Mr Kennedy opposed any application by Mr Wilson to adjourn and invited the panel to proceed in his absence.

The panel took account of the advice of the legal assessor who reminded the panel of the powers available to it in terms of Rule 32 of the 2004 Rules.

32 [...]

(2) A Practice Committee considering an allegation may, of its own motion or upon the application of a party, adjourn the proceedings at any stage, provided that

- (a) no injustice is caused to the parties; and*
- (b) the decision is made after hearing representations from the parties (where present) and taking advice from the legal assessor.*

(3) Where the proceedings have been adjourned, the Practice Committee shall, as soon as practicable, notify the parties of the date, time and venue of the resumed hearing.

(4) In considering whether or not to grant a request for postponement or adjournment, the Chair or Practice Committee shall, amongst other matters, have regard to

- (a) the public interest in the expeditious disposal of the case;*
- (b) the potential inconvenience caused to a party or any witnesses to be called by that party; and*
- (c) fairness to the registrant.*

[...]

The panel carefully considered Mr Kennedy's submissions and took full account of all of the information provided including the recent correspondence between Mr Wilson and the NMC. It noted that in his email, dated (Sunday) 2 February 2020, Mr Wilson stated that he was willing to provide evidence should it be required. The panel considered that, in the particular circumstances that were now outlined, it was fair to Mr Wilson to give him the opportunity to do so. The panel acknowledged that Mr Wilson had sent his most recent email four days before this hearing was due to resume. It noted that the reason for now requesting an adjournment [PRIVATE]. This was new information which had not previously been provided. The panel further noted that this new information appeared to relate to the email previously sent to the NMC, by Mr Wilson on 6 January 2020, which mentioned a family illness but did not provide any more detail. Whilst the panel was not

in a position to check the veracity of this information it noted Mr Wilson's willingness to provide further evidence if requested.

In addition the panel noted that Mr Wilson had only received the transcripts of the hearing, including the lengthy determination on facts, on the 5 February 2020 at 13:06, the day before this hearing was to resume. The panel considered that given the circumstances described in his email, Mr Wilson may not have had sufficient time to fully consider and respond to the determination.

The panel also considered Mr Wilson's email to the NMC case officer, dated 28 January 2020 which stated:

'Hi shona, sorry but just getting your email. I live in a rural area and have had no wifi phone signal etc for days due to weather conditions. However back up now. Sorry about the error with my phone number. It is [...]. Thanks shona and call me whenever.' [sic]

Mr Wilson has given an explanation as to why, in the previous hearing, he had been unable to respond promptly to the panel's attempt to reach him by telephone. The panel determined that this email was an indication of Mr Wilson's willingness to engage with the proceedings. It noted that from his email of 2 February 2020 he would still like the opportunity to participate via telephone link. However, the panel also noted that due to the extenuating circumstances he described, he is apparently not in the position to do so.

The panel took into account fairness to the NMC and the public interest in the expeditious disposal of this case.

The panel considered the terms of Rule 32. It noted that given the stage the hearing has now reached there was no inconvenience to witnesses. It considered that this is Mr Wilson's case and that he was entitled to participate in the hearing at any stage. In all these circumstances the panel determined that on balance, fairness to Mr Wilson, as the registrant, outweighed any inconvenience to the NMC and the public interest in the

expeditious disposal of this case. In doing so it considered that this did not cause injustice and was in the interests of justice overall.

Unlike the panel's previous decision to refuse Mr Wilson's application to adjourn on the 23 January 2020 and to continue in his absence the panel considered that he had now provided a more specific and cogent reason for his application which was based on more compelling grounds.

The panel accepted there was no independent evidence to verify Mr Wilson's request but given that the apparent immediacy [PRIVATE] it did not consider this to be surprising.

For all the reasons given above the panel determined to allow the application for an adjournment.

Given that the hearing of Mr Wilson's case started in October 2019, the panel directs that this case is completed at the earliest opportunity.

Determination on interim order

The panel has considered the submissions made by Ms Forsyth (the NMC case presenter standing in for Mr Kennedy) based on its findings at the facts stage that an interim order should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel accepted the advice of the legal assessor.

The panel reminded itself of the charges found proved, namely medication theft from Mr Wilson's employer, lying in his application form and at subsequent interview, and failures in medication administration.

The panel considered that in light of the charges found proved and there being no evidence of remediation there currently exists a real risk to patients, colleagues and members of the public if some form of interim order were not imposed. The panel also

considered that public confidence in the profession would be undermined if an interim order was not imposed pending the hearing reconvening.

The panel considered that no conditions of practice could be formulated to address the regulatory concerns arising from the charges found proved. Furthermore, given the lack of meaningful engagement from Mr Wilson, the panel has no information to suggest that Mr Wilson is either willing or able to comply with any conditions of practise. The panel therefore determined that it was necessary to impose an interim suspension order.

The panel was satisfied that an interim suspension 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 on facts in reaching the decision to impose an interim order. To do otherwise would be incompatible with its earlier findings.

The period of this order is for six months to cover the period until this matter is satisfactorily concluded.

That concludes this determination.

Hearing resumed on 26 January 2021

The hearing resumed on 26 January 2021, Day 12 of these proceedings, by way of virtual hearing, due to the Covid-19 pandemic.

Decision and reasons on service of Notice of Hearing (26 – 28 January 2021)

The panel was informed at the start of this hearing that Mr Wilson was not in attendance and that the Notice of Hearing letter had been sent to Mr Wilson's registered e-mail address on 27 October 2020.

The panel took into account that the Notice of Hearing provided details of the allegations, the times, dates and the place of the hearing. The Notice contained,

amongst other things, information about Mr Wilson's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence. On 5 January 2021, Mr Wilson was informed by e-mail that the hearing would be held remotely due to further travel restrictions relating to the Covid-19 pandemic. This e-mail also contained information on how Mr Wilson could participate remotely by video-link or telephone.

Mr Kennedy, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 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.

In the light of all of the information available, the panel was satisfied that Mr Wilson has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Wilson

The panel next considered whether it should proceed in the absence of Mr Wilson. It had regard to Rule 21 and heard the submissions of Mr Kennedy who invited the panel to continue in the absence of Mr Wilson. He submitted that Mr Wilson had voluntarily absented himself.

Mr Kennedy referred the panel to the documentation provided by the NMC, outlining a timeline of e-mail communication between the NMC and Mr Wilson. He submitted that Mr Wilson had not applied for an adjournment and that his most recent communication seemed to suggest that Mr Wilson wanted this case to conclude as soon as possible. He outlined that Mr Wilson's position and personal situation have changed throughout the last year.

Mr Kennedy drew the panel's attention to communications between the NMC and Mr Wilson commencing 1 June 2020 where he stated that he was going to seek representation. However, by 6 July 2020 representation had not been arranged by Mr

Wilson, who further he sought a postponement of the proceedings as he was seeking to re-open the 'Facts' stage of the hearing. In a telephone conversation on 9 July 2020, Mr Wilson stated that he had no access to a computer and could not participate in a virtual hearing. Mr Kennedy informed the panel that Mr Wilson did not respond to any further communication from the NMC until 15 January 2021.

Mr Kennedy also drew the panel's attention to a 'trace report' dated 17 September 2020. He stated that, as a result of the lack of response to a number of e-mails regarding Mr Wilson's availability for the hearing, the NMC hired a private investigator to confirm Mr Wilson's address. Mr Kennedy submitted that the 'trace report' is the outcome of the investigation and that the report confirmed that Mr Wilson is still resident at the same address as previously known to the NMC and as noted on the register.

Mr Kennedy submitted that the first e-mail after this period of non-communication was on the 15 January 2021 in which he states:

'I am finished with nursing and the stress of getting harrassed [sic] with emails and phone calls and the upcoming case [...]

Mr Kennedy submitted that Mr Wilson had now had enough time to get his personal circumstances in order to be able to take part in this resuming hearing. He submitted that it is in the interest of justice and in the public interest to proceed with the hearing today, which has gone on for a considerable amount of time.

Upon questioning by the panel Mr Kennedy submitted that although Mr Wilson stated in July 2020 that he would not be able to participate in a virtual hearing due to not having access to a computer, he has been sending e-mails in January 2021. Mr Kennedy submitted that this indicates that he has access to e-mail and therefore to some form of digital device. However, he submitted that in any case, Mr Wilson would be able to participate by telephone if he should so wish and that the NMC has been in contact with him via the telephone in the past. He submitted that the change from physical hearing to virtual hearing should therefore not affect the panel's decision with regard to proceeding in absence.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mr Wilson. In reaching this decision, the panel considered the submissions of Mr Kennedy, the e-mail communication between the NMC and Mr Wilson, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* and had regard to the overall interests of justice and fairness to all parties.

The panel noted that on 13 July 2020 the NMC e-mailed Mr Wilson to draw his attention to the rules relating to an application to reopen the facts. As the NMC could not provide him with advice they recommended that he contacted his representative for advice about that process.

The panel took into account that the NMC Case Officer contacted Mr Wilson regarding the resuming hearing on the following dates:

- 30 July 2020, via e-mail;
- 31 August 2020, via e-mail;
- 26 August 2020, via e-mail;
- 24 September 2020, via e-mail;
- 26 October 2020, via e-mail;
- 27 October 2020, via e-mail;
- 3 November 2020, telephone call;
- 12 November 2020, via e-mail; and
- 5 January 2021, via e-mail.

The panel also noted that the NMC did not receive any response to their communications with Mr Wilson until an e-mail dated 15 January 2021 to the Case Officer where he said '*it's a waste of time to continue and really want a conclusion now.*'

The panel determined that:

- No application for an adjournment has been made by Mr Wilson;
- Mr Wilson has indicated to the NMC that he has received the Notice of Hearing;
- Mr Wilson has stated in an e-mail to the NMC, dated 15 January 2021, that he '*really want[s] a conclusion now*';
- Despite stating in July 2020, that he had no access to a computer, Mr Wilson has sent two e-mails to the NMC in January 2021;
- Mr Wilson had the option to attend this virtual hearing via telephone;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- The charges relate to events that occurred in 2017;
- On the last occasion, 6 February 2020, the hearing was adjourned in order to enable Mr Wilson to seek representation. The panel was of the view that Mr Wilson had had time to do so over the last year;
- There is a strong public interest in the expeditious disposal of the case;
- The panel was of the view that it would also be in Mr Wilson's interest to proceed with the hearing.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Wilson.

Submission on misconduct and impairment

Having announced its finding on all the facts, the panel then moved on to consider, whether the facts found proved amounted to misconduct and, if so, whether Mr Wilson's fitness to practise is currently impaired. 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 heard submission on misconduct and impairment on two separate dates, 24 January 2020 and 26 January 2021. The gap between the two dates was as a result of factors that include disruptions caused by the Covid-19 Pandemic and ongoing correspondence between the NMC and Mr Wilson. Although the panel had originally drafted a determination on 6 February 2020, the hearing was adjourned prior to handing down its decision. The hearing was originally due to resume on 30 April 2020. However, at the end of March 2020 these dates were cancelled due to the Covid-19 pandemic. Subsequently, in September 2020, the hearing was listed to resume on 26 January 2021. At the commencement of the hearing on 26 January 2021, the panel was concerned about the lapse of time since the last hearing adjournment and therefore considered it fair to all parties to look afresh at the matter in light of the amount of time passed.

In his submissions Mr Kennedy invited the panel to take the view that Mr Wilson's actions amounted to a breach of *The Code: Standards of conduct, performance and ethics for nurses and midwives 2015* ("the Code"). He then directed the panel to specific paragraphs and identified where, in the NMC's view, Mr Wilson's actions amounted to misconduct.

Mr Kennedy referred the panel to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

He then moved on to the issue of impairment, and addressed the panel on the need to protect the public and consider the wider public interest. This included the need to

declare and uphold proper standards and maintain public confidence in the profession and in the NMC as the regulatory body. Mr Kennedy referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), as the test to be applied when considering impairment of fitness to practise.

Mr Kennedy submitted that Mr Wilson had not engaged in the regulatory process in any meaningful fashion. Mr Kennedy thereafter referred the panel to the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and the test for considering current impairment. He reminded the panel that there was no information that would allow the panel to conclude that Mr Wilson is now in a position where he recognised how far below the required standard his actions and behaviour had fallen, the impact it had had on others and the effect it had on the reputation of the nursing profession. Mr Kennedy submitted that Mr Wilson has shown no insight.

Mr Kennedy submitted that the medication errors in this case were remediable, however, he advised the panel that Mr Wilson, on repeated occasions, resorted to dishonesty. Mr Kennedy submitted that this might indicate an attitudinal problem, which is more difficult to remediate. He pointed out that Mr Wilson has not worked as a nurse since August 2018 and submitted that therefore there is nothing to indicate that Mr Wilson has remediated either the medication errors or his dishonest behaviour.

Mr Kennedy further submitted that there is a lack of evidence to assure the panel of Mr Wilson's insight, remediation and remorse. Mr Kennedy submitted that a finding of current impairment is necessary to protect the public. Mr Kennedy also submitted that it is otherwise in the public interest to find that Mr Wilson's fitness to practise is currently impaired.

The panel has accepted the advice of the legal assessors which included reference to the cases of *Roylance v General Medical Council*; *Cohen v General Medical Council*, *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* and *Schodlok v GMC 2015 EWCA civ 769*.

The panel adopted a two-stage process in its consideration, as advised:

'First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Wilson's fitness to practise is currently impaired as a result of that misconduct.'

Decision on misconduct

When determining whether the facts found proved amount to misconduct the panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015).

The panel, in reaching its decision, considered both public protection and the public interest and accepted that there was no burden or standard of proof at this stage and has exercised its own professional judgement.

The panel first considered the nature of the charges found proved. These included: repeated medication errors and acts of dishonesty, including theft and deliberately misleading his prospective employer, spanning a period of approximately 17 months.

The panel was of the view that Mr Wilson's acts and omissions amounted to breaches of the Code. Specifically:

1 *Treat people as individuals and uphold their dignity*

To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively

1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

19 *Be aware of, and reduce as far as possible, any potential for harm associated with your practice*

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

20 *Uphold the reputation of your profession at all times*

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that charges 4, 5a), 6, 8 and 9 individually amounted to misconduct. The panel took the view that honesty and integrity are fundamental tenets of the nursing profession and any departure from these standards of behaviour are a breach of the trust placed in the nursing profession by members of the public.

The panel concluded that charges 5b) and 5c) though factually correct, did not amount to misconduct as Mr Wilson had provided Seabank, as his prospective employer, with the relevant information within a short time after the interview.

The panel also found that the charges that related to medication errors, namely 10a), 10b), 10c), 10f), 10h), 10i), 11a), 11b) and 12a) amounted to misconduct. Mr Wilson had a duty to administer medications as prescribed unless there was a valid and recorded reason for omission. The panel noted that these errors involved elderly and vulnerable patients and related to failures in fundamental nursing practice. The panel was mindful that no evidence of harm to the patients involved had been presented, but took the view that there was the potential for harm in each case.

Given all of the above the panel found that Mr Wilson's acts and omissions fell significantly short of the conduct and standards expected of a registered nurse and therefore amounted to misconduct.

Decision on Impairment

The panel next went on to decide if, as a result of the misconduct identified above, Mr Wilson's fitness to practise is currently 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 judgement of Mrs Justice Cox in the case of *Nursing and Midwifery Council Grant* [2011] EWHC 927 (Admin). Mrs Justice Cox in Paragraph 76 stated:

'[...] 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 fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- 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. has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

The panel looked at the charges found proved and determined that they fell under three themes, namely, medication theft from Mr Wilson's employer, lying in his application form and at subsequent interview, and failures in medication administration.

The panel had found that by his acts and omissions Mr Wilson stole medication, made repeated medication errors and provided misleading and incorrect information to a prospective employer. In doing so Mr Wilson placed patients at risk of harm, brought the profession into disrepute, breached fundamental tenets and acted dishonestly. It therefore found all four limbs of the Grant test were engaged with regard to both the past and the future.

The panel noted that Mr Wilson had not provided any evidence to show remorse, insight or remediation. It noted that Mr Wilson has not worked as a nurse since August 2018 but it had no further information on his current working position or otherwise. In these circumstances the panel concluded that the risk of repetition of the misconduct identified remains high. The panel therefore concluded that a finding of current impairment is 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 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 considered that an ordinary member of the public would find Mr Wilson's actions deplorable. The panel therefore determined that the nature and breadth of the charges also require a finding of impairment on public interest grounds.

Having regard to all of the above, the panel concluded that Mr Wilson's fitness to practise is currently impaired on both public protection and public interest grounds.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Wilson off the register. The effect of this order is that the NMC register will show that Mr Wilson has been struck-off the register.

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.

Submissions on sanction

Mr Kennedy informed the panel that in the original Notice of Hearing the NMC had advised Mr Wilson that it would seek the imposition of striking-off order if it found his fitness to practise currently impaired.

Mr Kennedy referred the panel to the SG. He outlined the mitigating and aggravating factors of the case to the panel. He acknowledged that there was no actual patient harm. However, Mr Kennedy submitted that Mr Wilson's lack of engagement, the lack of evidence into Mr Wilson's insight and remediation, the repeated dishonesty and the potential for patient harm are all aggravating factors to the case.

Mr Kennedy submitted that Mr Wilson's behaviour and the underlying charges are too serious to take no further action. He also submitted that these factors and the lack of remediation and a subsequent period of good practice lead to the conclusion that a caution order would not be appropriate in this case.

Mr Kennedy submitted that there is no evidence before the panel that would suggest that a conditions of practice order would be workable. He submitted that Mr Wilson has not expressed any willingness that he will comply with any conditions imposed, to undergo further training or even expressed that he is committed to continue working in the healthcare sector. Mr Kennedy further submitted that in his most recent communication, Mr Wilson has stated that he no longer desires to be a registered

nurse. However, Mr Kennedy submitted that whilst the medication errors are remediable, the dishonesty shown by Mr Wilson cannot be addressed through any conditions of practice.

Mr Kennedy submitted that Mr Wilson's actions are fundamentally incompatible with being on the register. He submitted that Mr Wilson's failings were a significant departure from the standards expected of a registered nurse that had the potential to cause harm to patients. He submitted that Mr Wilson has shown no insight into his failings. And whilst Mr Kennedy acknowledged that not all dishonesty is equally serious, he submitted that in this case Mr Wilson displayed serious serial dishonesty that was premeditated. He reiterated that Mr Wilson had stolen medication, concealed a conviction from his employer and was dishonest about a previous position he worked in.

Mr Kennedy submitted that these factors lead to the conclusion that a suspension order may not be sufficient in this case. He submitted that due to the lack of meaningful engagement by Mr Wilson there is no evidence of development of any insight, remorse or remediation. Mr Kennedy referred the panel to the case of *Parkinson V NMC* [2010] EWHC 1898 (Admin).

In response to a question of the panel, Mr Kennedy addressed the matter of taking no further action as Mr Wilson's registration is only active due to the proceedings and he has expressed in his communication with the NMC that he would like to be removed from the register. However, Mr Kennedy submitted that the matters found proved by the panel are too serious to take no further action. He also submitted that although Mr Wilson had been sent the link to the relevant part of the NMC website, he has not submitted an application for voluntary removal. Mr Kennedy therefore submitted that it would not be appropriate nor proportionate to take no further action.

The panel heard and accepted the advice of the legal assessor who referred it to the cases of *Parkinson* and *Lusinga v NMC* [2017] EWHC 1458 (Admin).

Decision and reasons on sanction

Having found Mr Wilson'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 panel exercised its own independent judgement in making a decision on sanction.

The panel considered the following factors to be aggravating:

- A lack of meaningful engagement;
- No evidence of any insight, remorse and therefore any remediation;
- The risk of patient harm;
- Repeated and deliberate dishonesty;
- A repetition of the failings due to a lack of insight;
- The abuse of a position of trust; and
- The failings and dishonesty occurred over a long period of time.

The panel was of the view that in light of the inconsequential engagement by Mr Wilson there are no mitigating features in this case.

In deliberating upon which sanction was appropriate in this case the panel commenced by assessing the seriousness of Mr Wilson's failings. The panel was of the view that Mr Wilson deliberately gave a false picture of his employment history which hid clinical incidents in the past. It found that Mr Wilson did not prioritise people, practice effectively or preserve patient safety as evidenced by his medication errors which gave rise to the potential for patient harm. It concluded that the pattern of these incidents over a period of time show that Mr Wilson had not gained any insight into his failings and therefore has not remediated his failings in this regard. The panel concluded that Mr Wilson failed to put his clinical failing's right which could subsequently affect the public's trust in nurses and put their professionalism into question. It was of the view that the trust of the public in the nursing profession could be further damaged due to Mr Wilson's deliberate

and premediated dishonesty. The panel considered the guidance regarding cases involving dishonesty and determined that the following factors were engaged:

- the dishonesty was premeditated and systematic;
- the dishonesty resulted in Mr Wilson being offered employment in a position as a registered nurse, which could be viewed as the dishonesty resulting in personal and financial gain;
- by being dishonest about his previous position Mr Wilson misled his future employer about his capability, skills and level of responsibility, subsequently potentially putting patients at a real risk of harm;
- the dishonesty was repeated on several occasions;
- Mr Wilson stole prescription-only medication, which only certain members of staff have access to, and removed them from the workplace resulting in a misuse of power.

Mr Wilson has not provided evidence that he is remorseful nor that he has attempted to reflect on his dishonesty, gain insight and remediate his actions.

The panel therefore concluded that Mr Wilson's actions and dishonesty were at the upper end of seriousness.

The panel then went on to consider the appropriate sanction to impose in ascending order starting with the lowest.

It 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 Mr Wilson'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 Mr Wilson's misconduct was not at the lower end of the spectrum and that a caution order 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 impose a caution order, nor would such an order protect the public.

The panel next considered whether placing conditions of practice on Mr Wilson's registration would be a sufficient and appropriate response. The panel was of the view that Mr Wilson's medication errors may be capable of remediation. However, it noted the communications from Mr Wilson to the NMC and concluded that there is no evidence that Mr Wilson would be willing to re-train or engage in the process. It concluded therefore that conditions could not be formulated which could be monitored and assessed. The panel further considered dishonesty cannot be addressed through retraining. The panel determined that the placing of conditions on Mr Wilson's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider a suspension order. The panel determined that the previously identified lack of insight and lack of meaningful engagement by Mr Wilson significantly reduced the possibility of the issues identified being resolved in the future. Additionally, the panel noted that Mr Wilson has recently stated that he has no intention of returning to the nursing profession.

The panel reminded itself of its findings with regard to the dishonesty displayed by Mr Wilson and concluded that there is evidence of harmful and deep seated attitudinal problems. It noted that there was no meaningful engagement by Mr Wilson that would explain or mitigate his actions. It was therefore not satisfied that he has insight into his failings and dishonesty and is therefore not able to remediate his actions. The panel was therefore of the view that there is a high risk of repetition in this case.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Wilson's actions is fundamentally incompatible with him remaining on the register.

In this particular case, the panel concluded that a suspension order would not be sufficient to address the public interest in this case. It therefore determined that a suspension order would not be appropriate or proportionate sanction.

Finally, in considering a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*

The panel was of the view that Mr Wilson's actions did raise fundamental questions with regards to his professionalism.

- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

The panel determined that public confidence in the nursing profession would not be maintained if Mr Wilson remained on the register.

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel concluded that a striking-off order was the only sanction sufficient to protect patients, members of the public, or maintain professional standards.

Mr Wilson's actions were significant departures from the standards expected of a registered nurse, and were fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrated that Mr Wilson's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction was that of a striking-off order. Having regard to the effect of Mr Wilson's actions in bringing the profession into disrepute by adversely affecting the public's view of how registered nurses should

conduct themselves, the panel concluded that nothing short of a striking-off order would be sufficient in this case.

The panel determined that this order was 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.

This will be confirmed to Mr Wilson in writing.

Interim order

As the striking-off 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 Mr Wilson's own interest until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Mr Kennedy. He submitted that an interim order is necessary to protect the public for the reasons identified earlier by the panel in their determination until the striking off order comes into effect. He therefore invited the panel to impose an interim suspension order for a period of 18 months to cover the 28 day appeal period and any period of appeal.

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

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 striking-off order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28 day appeal period and any period of appeal.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after Mr Wilson is sent the decision of this hearing in writing.

That concludes this determination.