

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

**Substantive Hearing  
Monday 7 August 2023 – Friday 11 August 2023  
Monday 14 August 2023 – Tuesday 15 August 2023**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Amy Wilson</b>
<b>NMC PIN:</b>	15F0108W
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – (June 2015)
<b>Relevant Location:</b>	Cardiff
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	David Evans (Chair, Lay member) Esther Craddock (Registrant member) Caroline Taylor (Lay member)
<b>Legal Assessor:</b>	Graeme Dalglish
<b>Hearings Coordinator:</b>	Charis Benefo
<b>Nursing and Midwifery Council:</b>	Represented by Dominic Bardill, Case Presenter
<b>Miss Wilson:</b>	Not present and unrepresented
<b>Facts proved:</b>	Charges 1, 2, 3a, 4 and 5
<b>Facts not proved:</b>	Charge 3b
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Conditions of practice order (18 months)</b>
<b>Interim order:</b>	<b>Interim conditions of practice order (18 months)</b>

## **Decision and reasons on application for hearing to be held in private**

At the outset of the hearing, Mr Bardill, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held partly in private on the basis that proper exploration of Miss Wilson's case involves reference to her health and personal circumstances. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (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.

The panel determined to hold in private the parts of this hearing that involve reference to Miss Wilson's health and personal circumstances, in order to protect her privacy. The panel was satisfied that this course was justified and that the need to protect Miss Wilson's privacy outweighed any prejudice to the general principle of public hearings.

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Wilson was not in attendance and that the Notice of Hearing letter had been sent to Miss Wilson's registered email address by secure email on 6 July 2023.

Mr Bardill submitted that the NMC had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how

to join and, amongst other things, information about Miss Wilson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Wilson had 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 Miss Wilson**

The panel next considered whether it should proceed in the absence of Miss Wilson. It had regard to Rule 21 and heard the submissions of Mr Bardill who invited the panel to continue in the absence of Miss Wilson.

Mr Bardill referred the panel to the NMC's correspondence with Miss Wilson on 27 July 2023, which included an email from Miss Wilson stating:

*'[PRIVATE]*

In a further email from Miss Wilson on 27 July 2023 she stated:

*'...[PRIVATE] so please let the records show to continue in my absence.'*

Mr Bardill submitted that it would be a matter for the panel to decide whether to proceed in Miss Wilson's absence in light of her correspondence with the NMC. He submitted that there is a public interest requirement to proceed wherever possible and for these cases to be expedited efficiently.

Mr Bardill stated that Miss Wilson is aware of this hearing and has given reasons as to why she cannot participate. He submitted that it is in the public interest for the regulatory concerns in this case to be dealt with as expeditiously as possible, although the panel would weigh this up with Miss Wilson's personal circumstances.

Mr Bardill informed the panel that aside from the emails on 27 July 2023, Miss Wilson had not engaged with the regulatory process and so there was no response to the charges, or to the invitation for the case management conference which took place before this hearing. [PRIVATE].

The panel accepted the advice of the legal assessor.

The panel noted that throughout the regulatory process, there had been little to no engagement from Miss Wilson. [PRIVATE]

[PRIVATE]

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute.

The panel decided to proceed in the absence of Miss Wilson. In reaching this decision, the panel considered the submissions of Mr Bardill, the representations from Miss Wilson, and the advice of the legal assessor. It had particular regard to the legal advice from the legal assessor and to the factors set out in the decision in *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss Wilson has been notified of her right to request an adjournment so as to participate in the hearing [PRIVATE]. However no application for an adjournment has been made by Miss Wilson;
- Miss Wilson has received the Notice of Hearing;
- Miss Wilson has indicated that [PRIVATE], and confirmed she is content for the hearing to proceed in her absence;
- [PRIVATE]

- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Three witnesses are due to attend to give live evidence;
- 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 2018 and 2019;
- Further delay may have an adverse effect on the ability of witnesses to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Wilson in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, 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, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Wilson's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Wilson. The panel will draw no adverse inference from Miss Wilson's absence in its findings of fact.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Bardill, on behalf of the NMC, to amend the wording of charges 1 and 2.

The proposed amendment would correct a typographical error on the date of the alleged incident. It was submitted by Mr Bardill that the proposed amendment would provide clarity and more accurately reflect the evidence.

“That you, a registered nurse:

1. During February ~~2019~~ **2018** removed medication from Omnicell for patients that were no longer in the department.
2. During February ~~2019~~ **2018** removed medication from Omnicell for patients who had not been prescribed the medication.”

Mr Bardill stated that on 27 July 2023 the NMC emailed Miss Wilson to notify her of the typographical error and the proposed charge amendments. The email also asked Miss Wilson to respond if she had any objection to this, however no such objection was received by the NMC.

The panel accepted the advice of the legal assessor and had regard to Rule 28.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. It noted that the evidence on these charges clearly related to February 2018 and further, that Miss Wilson had acknowledged February 2018 as the date of the incident during the local disciplinary process. The panel was satisfied that the amendment was minor and appeared to have been a typographical error. There would be no prejudice to Miss Wilson and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

#### **Details of charge (as amended)**

That you, a registered nurse:

1. During February 2018 removed medication from Omnicell for patients that were no longer in the department.
2. During February 2018 removed medication from Omnicell for patients who had not been prescribed the medication.
3. During June 2019:
  - a. Removed a non-prescribed box of Co-codamol from Omnicell against a patient's name.
  - b. Failed to document in the patient's record the erroneous dispensation of medication.
4. Around May/June 2019 removed eight stock items from Omnicell with no patient identifiable data.
5. Around May/June 2019 removed one take-home medication pack from Omnicell with no patient identifiable data.

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

KEY: Omnicell = computerised automatic medication dispensing system.

## **Background**

The NMC received a referral in respect of Miss Wilson on 19 February 2020. Miss Wilson first entered onto the NMC's register on 24 June 2015.

The allegations in this case arose whilst Miss Wilson was employed as a Registered Nurse at Cardiff and Vale University Health Board (the Health Board). Miss Wilson

commenced employment at the Health Board on 2 August 2015 as a Band 5 Registered Nurse. She then moved to the Assessment Unit which includes the Medical Admissions Emergency Care Unit (MAECU) on 30 April 2017, before being promoted to a Band 6 Registered Nurse on 5 November 2017.

The first allegations in this case are that in February 2018, Miss Wilson removed Co-codamol from the automatic medication dispensing system (Omnicell) on numerous occasions for patients that had either been discharged or were not prescribed this medication. The Omnicell machine requires the user to place a fingerprint on the machine in order to unlock it. They are then required to enter the patient details for whom they wish to dispense medication for into the machine and then select the medication that they wish to receive. The Omnicell records every transaction that takes place, including the person unlocking the Omnicell.

Miss Wilson was redeployed to work in a non-clinical role whilst an investigation was undertaken.

A disciplinary hearing took place in April 2019 in relation to these concerns, and Miss Wilson was issued a final written warning.

Miss Wilson undertook further training in the use of the Omnicell, and she was assessed as competent. An action plan to support her practice was put in place, and she returned to work on the Unit in April 2019.

It is then alleged that in May/June 2019, Miss Wilson removed a box of Co-codamol against a patient's name from the Omnicell. The medication was not prescribed or administered to this patient. On reviewing the Omnicell activity report, it was allegedly identified that Miss Wilson removed eight stock items with no patient identifiable data and one take-home medication pack with no patient identifiable data in the months of May and June 2019.



There then followed a second disciplinary process.

### **Decision and reasons on the panel's request for additional evidence**

The panel had sight of the documentary evidence in this case, which included the local investigation report relating to the February 2018 allegations. The panel noted that some information from the investigation report had been omitted, in particular Miss Wilson's own witness statement and account of the incidents. The panel, of its own volition, requested that the NMC make this part of the report available.

In addition, having heard Witness 2's oral evidence, the panel noted that there appeared to have been a local investigation in respect of the May/June 2019 allegations (charges 3 to 5) which had not been placed before it. The panel requested that the NMC make this local investigation report available.

This additional evidence in respect of both the 2018 and 2019 allegations was made available by Mr Bardill to the panel. The 2019 investigation report was suitably redacted to remove the conclusions and it was then subject to a hearsay application.

### **Decision and reasons on application to admit hearsay evidence**

The panel heard an application made by Mr Bardill under Rule 31 to allow the Health Board's local investigation report in respect of the May/June 2019 allegations into evidence. This report, dated 12 December 2019, had been prepared by an Interim Senior Nurse at the Health Board (Ms 1). Ms 1 was not present at this hearing. Her report had not formed part of the documentary evidence originally placed before the panel and so the NMC had not made efforts to secure her as a live witness or obtain a signed, written statement from her.

Mr Bardill reminded the panel that Miss Wilson had voluntarily absented herself from this hearing. He stated that this report provided the panel with additional information, including

explanations provided by Miss Wilson at the time. Mr Bardill submitted that in the absence of any response to the charges, the investigation report was relevant to the facts of the allegations. Mr Bardill submitted that admitting this hearsay evidence would not be unfair or prejudicial to Miss Wilson as this panel would only have sight of the facts gathered at the time and explanations given, rather than any conclusions made at the local level.

Mr Bardill submitted that the panel had requested sight of this report as it would assist the panel in making its decision on the facts with the full information before it.

Mr Bardill submitted that there was an element of fairness to Miss Wilson by allowing the report to be admitted into evidence due to the lack of information from her about these charges.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant*', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. He referred the panel to the guidance in the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin).

The panel gave the application in regard to the Health Board's local investigation report dated 12 December 2019 serious consideration. The panel noted that Ms 1, the member of staff who prepared this report, was not a live witness and had not provided a signed NMC witness statement. The panel was satisfied that there was a good and proper reason for Ms 1's non-attendance as a live witness because the report had not initially been placed before the panel.

The panel considered that this was not the sole and decisive evidence in respect of charges 3 to 5. The panel was satisfied that the report was relevant as it formed part of the formal process that took place at the Health Board following the alleged incidents, where Miss Wilson had the opportunity to provide an explanation.

The panel noted that Miss Wilson had chosen not to attend this hearing and was not aware, at the time of making that decision, of this application to allow the 2019 investigation report into evidence as hearsay. However, the panel determined that admitting this report into evidence would be fair to Miss Wilson as it allowed the panel to consider her own response in respect of the allegations. The panel was satisfied that considering this evidence would facilitate a balanced range of evidence in respect of the charges and it could be tested against the other evidence, including that of live witnesses who had taken part in the investigation.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay local investigation report dated 12 December 2019, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

### **Decision and reasons on facts**

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Bardill on behalf of the NMC.

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

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Unit Manager of the Assessment Unit at the relevant time;
- Witness 2: Band 6 Deputy Sister and the Nurse in Charge on the Assessment Unit at the relevant time; and
- Witness 3: Unit Manager on the Assessment Unit and Miss Wilson's Line Manager at the relevant time.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

The panel then considered each of the disputed charges and made the following findings.

### **Charges 1 and 2**

*That you, a registered nurse:*

1. *During February 2018 removed medication from Omnicell for patients that were no longer in the department.*
2. *During February 2018 removed medication from Omnicell for patients who had not been prescribed the medication.*

**These charges are found proved.**

In reaching this decision, the panel took into account the Omnicell '*Transactions by User*' reports for Miss Wilson in February 2018. It noted the entries of medication which had been removed from the Omnicell, as well as the handwritten annotations on some of these entries which stated '*this [patient] never been in MAECU*', '*not in MAECU*'.

Further, the panel had regard to the Omnicell '*Transaction by Item*' reports for Miss Wilson. The '*Transaction by Item*' report for '*CO-CODAMOL TABLET 30 / 500 TABS*' on 26 February 2018 included a handwritten annotation stating '*No evidence in any [patients] notes that co-codamol prescribed.*' Two other '*Transaction by Item*' reports for '*CO-CODAMOL TABLET 30 / 500 TABS*' on 27 and 28 February 2018 included handwritten annotations stating '*not [patient] in area*' and '*correct but 6 tabs being registered to [patients] who are not in MAECU*'.

In oral evidence, Witness 1 confirmed that she had made the handwritten annotations to the Omnicell reports after determining that Miss Wilson had removed medication from the Omnicell using the details of patients who were either not in the department, or had not been prescribed that medication by reference to the patients' medical records.

The panel was of the view that Witness 1 had provided clear, open, reliable and credible evidence which was consistent with the documentary evidence before the panel.

The panel noted that this allegation had been put to Miss Wilson during the Health Board's investigation and in her local witness statement dated 20 July 2018, it stated:

***'How do you respond to the allegation that:-***

***You have removed prescription medication from the medication cupboards which have not been used for the reason indicated by yourself***

*I know that I did not administer medications to patients that were in different departments and no errors have been identified on medication charts and no errors or concerns have been raised by patients. I feel that this has been caused by typing errors, causing the system to look like I have administered them to the wrong person. However, patient's documents do not reflect this. As for the difference in medication amounts, I can't explain this and I am not sure why this has happened. I*

*appreciate that taking a strip of medication out of the omnicell is poor practice but does not explain the difference still.*

### **1.1 For patients who are no longer in the department**

*As advised above, it may have been typing errors and that I forgot the non-specific patient function was no longer there. I did not administer medications to any patients other than those in my department/area I was working in.*

### **1.2 For patients who have not been prescribed a specific medication**

*It all follows on. It was me not putting the right details in the system.'*

The panel noted from Miss Wilson's responses to these allegations that she was unable to offer an explanation for the discrepancies.

The panel was therefore satisfied on the balance of probabilities that during February 2018, Miss Wilson removed medication from Omnicell for patients that were no longer in the department, and for patients who had not been prescribed the medication.

## **Charge 3a**

*That you, a registered nurse:*

### *3. During June 2019:*

- a. Removed a non-prescribed box of Co-codamol from Omnicell against a patient's name.*

**This charge is found proved.**

In reaching this decision, the panel took into account the relevant patient's patient record for 10 June 2019. The panel noted that this patient had been admitted on 10 June 2019

and discharged on 11 June 2019 when Miss Wilson was not on duty. It also noted that Co-codamol did not appear in the record as a prescribed medication, nor did it appear on the list of medication in the patient's discharge plan.

The panel had regard to the entry on 10 June 2019 at 23:43 in the Omnicell '*Transactions by User*' report for Miss Wilson. It noted the entry that a take-home pack of Co-codamol had been removed against a patient's name (which had been redacted), even though at that time there was no discharge plan in place for this patient. Witness 3 explained that she checked the entry for this patient with the patient's records and determined that there was no prescription for this medication in the record.

As part of the local investigation, Witness 3 provided a witness statement dated 27 December 2019 which stated:

*'Amy Wilson was the only staff nurse that had removed one box of co-codamol 30/500 ... that was not prescribed for the patient it was removed for. The medication was removed at approx.. 23.00 hours on 10<sup>th</sup> June 2019 and the patient it was removed for was not discharged until approx.. midday on 11<sup>th</sup> June 2019.'*

In her witness statement dated 31 December 2020, Witness 3 stated that:

*'Having cross-referenced everybody, I was able to ascertain that the registrant had removed a box of Cocodamol (take home tablets) ... for a patient who had not been prescribed either. I am sure that it was the registrant who removed the medication as she is the one who logged into the medication dispensation system Omnicell...'*

The panel found that Witness 3's account during the local investigation was consistent with her witness statement and oral evidence. The panel was satisfied that based on the documentary and live evidence before it, Co-codamol had been removed against this patient's name by Miss Wilson on 10 June 2019.

The panel therefore determined that on the balance of probabilities during June 2019, Miss Wilson removed a non-prescribed box of Co-codamol from Omnicell against a patient's name.

### **Charge 3b**

*That you, a registered nurse:*

*3. During June 2019:*

*b. Failed to document in the patient's record the erroneous dispensation of medication.*

**This charge is found NOT proved.**

In reaching this decision, the panel took into account its finding at charge 3a.

The panel considered that in light of the alleged failure, the onus was on the NMC to prove that Miss Wilson knew that she had erroneously dispensed medication, and that she therefore had a duty to record this error in the patient's notes.

There was no evidence before the panel to suggest that Miss Wilson knew of her error at the time. There was also no evidence about what Miss Wilson did with the medication after removing it from the Omnicell. The panel concluded that Miss Wilson did not have a duty to document in the patient's record her erroneous dispensation of medication because she did not know of her error at the time. The panel was of the view that if someone was unaware of their error, it would not be possible for them to document said error, or to be under a duty to do so.

The panel was not satisfied that the NMC had adduced evidence to establish a duty on or a failure by Miss Wilson in respect of this charge. It therefore found charge 3b not proved.

### **Charge 4**



*That you, a registered nurse:*

- 4. Around May/June 2019 removed eight stock items from Omnicell with no patient identifiable data.*

**This charge is found proved.**

In reaching this decision, the panel took into account the Omnicell '*Transactions by User*' report for Miss Wilson. It noted the entries detailing the removal of at least eight stock items between 11 May 2019 and 11 June 2019, where instead of specific patient names, Miss Wilson had entered '2222', '222', '2', '333' or 'aaa'.

In oral evidence, Witness 3 told the panel that a fictitious '*Patient Name*' entry of '222' or similar was often made on Omnicell by members of staff in emergencies, when no patient details had yet to be recorded in the IT system, or simply as a shortcut. The panel found that Witnesses 1, 2 and 3 all provided consistent explanations about this issue and the process of using the Omnicell. The panel decided that all three of the witnesses were consistent, open, helpful, credible and reliable in respect of this charge.

During her oral evidence, Witness 3 referred the panel to the Omnicell '*Transactions by User*' report under Miss Wilson's name. There were a number of entries during May and June 2019 where medication was dispensed using '2222', '222', '2', '333' or 'aaa' with no patient identifiable data inserted.

In the local investigation report dated 12 December 2019, it stated that:

*'When questioned Amy Wilson identified that the shift in question was busy, when Amy Wilson had removed medications as in the reports without patient identifiable information, Amy stated that there would have been a valid prescription but that she had not taken the time to input the patient data. Amy stated it would have been*

*during a busy shift when she felt she did not have the time or an emergency situation where required access was needed to obtain the medications quickly.'*

The panel noted that during the local investigation, Miss Wilson had accepted removing medication from Omnicell with no patient identifiable data, which supported the documentary evidence in respect of this allegation.

The panel was therefore satisfied that on the balance of probabilities around May/June 2019, Miss Wilson removed eight stock items from Omnicell with no patient identifiable data.

### **Charge 5**

That you, a registered nurse:

5. Around May/June 2019 removed one take-home medication pack from Omnicell with no patient identifiable data.

### **This charge is found proved.**

In reaching this decision, as set out above, the panel took into account the Omnicell '*Transactions by User*' report for Miss Wilson. It noted the entries detailing the removal of at least one take-home medication pack between 11 May 2019 and 11 June 2019, where instead of specific patient names, Miss Wilson had entered '2222', '222', '2', '333' or 'aaa'.

In oral evidence, Witness 3 told the panel that a fictitious '*Patient Name*' entry of '222' or similar was often made on Omnicell by members of staff in emergencies, when no patient details had yet to be recorded in the IT system, or simply as a shortcut. The panel found that Witnesses 1, 2 and 3 all provided consistent explanations about this issue and the process of using the Omnicell. The panel decided that all three of the witnesses were consistent, open, helpful, credible and reliable in respect of this charge.

As set out above, the panel noted that during her oral evidence, Witness 3 referred the panel to the Omnicell '*Transactions by User*' report under Miss Wilson's name. There were at least two entries during May and June 2019 where take-home medication was dispensed using '2222', '222', '2', '333' or 'aaa' with no patient identifiable data inserted.

The panel also took into account the local investigation report dated 12 December 2019, as set out above, where Miss Wilson had accepted removing medication from Omnicell with no patient identifiable data, which supported the documentary evidence in respect of this allegation.

The panel was therefore satisfied that on the balance of probabilities around May/June 2019, Miss Wilson removed one take-home medication pack from Omnicell with no patient identifiable data.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss 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, in reaching its decision, recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. 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, Miss Wilson's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (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.*'

Mr Bardill referred to his written submissions and invited the panel to take the view that the facts found proved amount to misconduct. The panel also had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Bardill referred the panel to the NMC guidance on seriousness, as well as the cases of *R (Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 and *Nandi v General Medical Council* [2004] EWHC 2317 (Admin). He submitted that the shortcuts taken by Miss Wilson amounted to sufficiently serious misconduct, whether taken together or separately. He submitted that the consequences of withdrawing non-prescribed medication, either under a patient's name or no patient's name at all, are that:

- It prevents the Health Board from keeping proper control over the whereabouts of dangerous substances;
- It costs the Health Board and taxpayer money;
- It creates distrust and confusion in the working environment; and
- It results in inaccurate patient records which undoubtedly risks impacting on patient care and safety.

Mr Bardill submitted that as an additional consequence, fellow staff members were placed in difficult positions, both in terms of the care they might render to patients (based on a

reading of inaccurate records as accurate), their time taken up investigating discrepancies, and the broader risks inherent in medication going missing or a supply being less than it should be. Mr Bardill submitted that there was a real risk that had the relevant checks not been conducted by other staff, the hospital could have run short of vital medication unexpectedly, which inevitably places patients at risk of harm and directly affects patient and public safety. Mr Bardill submitted that Miss Wilson's misconduct undermined the trust and confidence that the public places in the profession.

Mr Bardill submitted that whilst no patients came to actual harm, there was a real risk that they could have. He submitted that this could have been at the material time or further down the line if the discrepancies had not been picked up.

Mr Bardill identified the specific, relevant standards where Miss Wilson's actions amounted to misconduct. He invited the panel to find that Miss Wilson had breached parts 8.2, 8.3, 8.5, 8.6, 18.1, 18.3, 18.4, 19.1, 19.2, 19.3, 19.4 and 24.2 of the Code.

### **Submissions on impairment**

Mr Bardill moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Bardill submitted that there is a present risk to patient and public safety by virtue of Miss Wilson's actions themselves, and also indirectly through the position it placed others in. In addition, he highlighted that Miss Wilson's conduct was repeated during two separate periods. One occasion was the initial incident in 2018 that resulted in an action plan to address Miss Wilson's shortcomings, and the second occasion was in 2019 while she was on that action plan. Mr Bardill submitted that this strongly indicated that if Miss

Wilson were allowed to continue to practise without restriction, the present risk to patient and public safety would remain unresolved and ongoing.

Mr Bardill submitted that Miss Wilson has demonstrated limited insight or acceptance of responsibility in this case. He submitted that whilst Miss Wilson has yet to provide a full explanation to the NMC or the panel for her actions, she has had ample opportunity to do so. He reminded the panel that Miss Wilson had been in contact with the NMC more recently and was aware of these proceedings. Mr Bardill stated that Miss Wilson was able to inform the NMC of reasons for not participating in these proceedings, but during those correspondences, she had not offered a full explanation, assistance or information about the allegations, or made reference to anyone or anything that could assist.

Mr Bardill acknowledged that Miss Wilson's issues were limited to the use of Omnicell, and that there were no concerns about her treatment of patients; rather, there were compliments. He submitted that the panel may think that the concerns can be addressed with additional support and training.

Mr Bardill submitted that the panel might find that without proper remediation, there remains a real risk to patient safety and of repetition. He submitted that in the absence of insight, responsibility or remediation from Miss Wilson, this would become even more important because the risk of repetition is increased.

Mr Bardill invited the panel to consider that Miss Wilson has no previous findings against her and that aside from these incidents, all of the NMC witnesses made clear that they had no concerns about Miss Wilson in her practice as a nurse relating to patients. He reminded the panel that colleagues described her as happy, bubbly, friendly, and a "*good nurse*" with a "*lovely*" personality who got on well with everyone.

Mr Bardill submitted that the panel might find that there is a public interest in a finding of impairment, particularly where patients have been placed at risk of harm or staff put in difficult or risky situations in their own practice. He submitted that impairment may be

found in any event owing to the public interest arising out of the misuse of the dispensation system, the cost to the taxpayer and the risk to patients and the public arising from it all. Mr Bardill submitted that impairment could be found in order to maintain public trust and confidence in the profession and to fulfil one of the panel's duties of declaring and upholding proper standards of professional conduct. He submitted that if the panel were of the view that a finding of impairment was in the public interest in order to fulfil this duty, then it ought to find impairment on this ground.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council, R (On the application of Remedy UK) v GMC* and *Cohen v General Medical Council* [2008] EWHC 581 (Admin), as well as the authoritative guidance in *CHRE v NMC and Grant*.

### **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Miss Wilson's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Wilson's actions amounted to a breach of the Code. Specifically:

**'10 Keep clear and accurate records relevant to your practice**

*This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.*

*To achieve this, you must:*

*10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.*

**18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations**

*To achieve this, you must:*

18.3 *make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or treatment they are receiving, including (where possible) over-the-counter medicines.*

18.4 *take all steps to keep medicines stored securely*

**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.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel considered charges 1, 2, 3a and 5 collectively as they related to the erroneous removal of medication from Omnicell. The panel noted that at the time, some members of staff had been using Omnicell incorrectly and all staff had to be re-trained with certification following the incident. However, it considered that Miss Wilson was a Band 6 nurse at the Health Board, who was responsible for the safe keeping of medication and as a fundamental aspect of nursing, she was expected to manage medication safely and accurately.

The panel considered that after each incident involving Omnicell, it was not clear what Miss Wilson did with the medication. The panel noted, particularly in relation to charges 1 and 2, that the medication was not administered to the patients identified on Omnicell as



they were either patients who were no longer in the department or because they had not been prescribed the medication. The panel had been told by witnesses that no patients had been given the wrong medication. In charge 5, take home medication had been removed, but no patient had been identified.

During the local investigation, Miss Wilson was unable to provide a plausible explanation as to where the medication in charges 1, 2, 3a and 5 went. The panel considered that the loss of control over the medication which had been removed from the Omnicell created a risk of inappropriate use by patients or other members of staff. The panel considered that in doing so, Miss Wilson also broke the chain of audit for medication. The panel was satisfied that a well-informed member of the public would be concerned to learn that a nurse could not account for the loss of control of medication.

In addition, the panel noted the context of these incidents. In February 2018, Miss Wilson had removed medication from Omnicell for patients that were no longer in the department and for patients who had not been prescribed the medication. During the disciplinary process, Miss Wilson was placed in a non-clinical role. Following the completion of the disciplinary process, she returned to a patient-facing role in April 2019 and as part of an action plan, undertook further training in the use of Omnicell, and she was assessed as competent. However, in May and June 2019, she continued to use Omnicell incorrectly, giving rise to charges 3a, 4 and 5. The panel was of the view that Miss Wilson's conduct was aggravated by the fact that she repeated the errors, although at the time she was unaware that these were errors.

On this basis, the panel was satisfied that in respect of charges 1, 2, 3a and 5, Miss Wilson's actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to charge 4, the panel took into account the Health Board's Investigation Report dated 12 December 2019 which provided a recommendation that it would:

*'Continue to manage the use of 2222 etc. as being an acceptable method of dispensing medication from the Omnicell system for generic items only, as identified by the Senior Nurse and Pharmacist. Ensure all staff are re-trained and accurate records reflect this change to practice.'*

Whilst the panel had not been given a definition of what constituted '*generic items*', it concluded that on a fair and reasonable reading, this was the same as the term '*stock items*' as used in charge 4.

The panel took into account that at the conclusion of the investigation, the Health Board had concluded that the use of no patient identifiable data was an acceptable method of removing stock items from the Omnicell. The panel was satisfied that Miss Wilson's conduct at charge 4 was an accepted practice. It therefore found that, whilst not ideal, Miss Wilson's conduct in respect of this charge was not serious enough to amount to misconduct given the Health Board's express attitude and acceptance of the specific practice in relation to stock items.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, Miss 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. 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 make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ 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) ...'*

The panel found that patients were put at risk of harm as a result of Miss Wilson's misconduct. Miss Wilson's misconduct had breached the fundamental tenets of the nursing profession by failing to safely and effectively manage medication and therefore brought its reputation into disrepute.

The panel considered that it had seen little evidence of insight from Miss Wilson. During the disciplinary process, Miss Wilson accepted that she might have made these errors, but there was no evidence of reflection into the impact of her conduct. At this stage, the panel had not been provided with a reflective piece demonstrating an understanding from Miss Wilson of why what she did was wrong, and how her actions put patients at risk of harm and impacted negatively on the reputation of the nursing profession. The panel had no evidence before it of how Miss Wilson would manage the situation differently in the future.

The panel was satisfied that the misconduct in this case is capable of being addressed. The panel was mindful that Miss Wilson's misconduct consisted of a pattern of repeated errors in relation to the use of Omnicell and did not relate to her overall nursing practice. However, it took into account that after the initial incidents in February 2018, Miss Wilson completed training in April 2019, and she subsequently repeated the errors in May and June 2019. The panel had not seen any evidence to suggest that Miss Wilson had since taken steps to strengthen this area of her practice. The panel therefore concluded that there is a continuing risk of repetition and that a finding of current impairment of fitness to practise is necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as a well-informed member of the public would be concerned to learn that Miss Wilson made repeated errors in medication management, a fundamental area of nursing practice, and there was limited evidence to show that these had been meaningfully addressed.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also found Miss Wilson's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Wilson's fitness to practise is currently impaired.

## **Sanction**

The panel has considered this case carefully and has decided to make a conditions of practice order for a period of 18 months. The effect of this order is that Miss Wilson's name on the NMC register will show that she is subject to a conditions of practice order and anyone who enquires about her registration will be informed of this order.

In reaching this decision, the panel has had regard to all the evidence that has been heard 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**

In the Notice of Hearing, dated 6 July 2023, the NMC had advised Miss Wilson that it would seek the imposition of a conditions of practice order for the period of nine months with a review at the end of the order, if it found Miss Wilson's fitness to practise currently impaired. Mr Bardill submitted that this would be the appropriate order for the panel to make, having found misconduct and current impairment.

Mr Bardill referred the panel to his written submissions on sanction. He submitted that whilst the panel had found a lack of insight from Miss Wilson, given the nature of the misconduct, the concerns could be remediated. However he also invited the panel to note Miss Wilson's lack of engagement.

Mr Bardill referred to the SG, and in particular, the '*factors to consider before deciding on sanction*'. He submitted that the purpose of a sanction is not to punish a registrant but to protect the public and address the risk. Mr Bardill submitted that a sanction can also be used to deter others as set out in the case of *Brennan v Health Professions Council* [2011] EWHC 41 (Admin). He submitted that in this instance, reasoning is critical to showing proportionality. Mr Bardill also referred to the case of *Daraghmeah v General Medical Council* [2011] EWHC 2080 (Admin) in relation to conditions of practice orders, proportionality and the impact that conditions might have on a registrant.

Mr Bardill proposed that the following aggravating features were present in this case:

- There was a lack of insight;
- A clear pattern of misconduct over a period of time;
- Conduct which put patients at risk of harm;
- No real reflection from Miss Wilson on what would be done differently, what went wrong and how it can be avoided/corrected;
- No evidence of an attempt to remediate;
- A lack of any real engagement with the NMC or the tribunal process, even in writing; and
- Medication that went missing was never located.

Mr Bardill then proposed the following mitigating features:

- There had been no previous disciplinary findings against Miss Wilson's name;
- Miss Wilson is currently not practising (although it is unclear whether she intends to) and she is subject to an interim suspension order lasting until September 2023 as a consequence of these proceedings; and
- Miss Wilson's [PRIVATE] and personal circumstances (albeit these had not been evidenced).

Mr Bardill submitted that no further action or a caution order would not be sufficient to reflect the seriousness of this case, address the regulatory concerns, or protect the public.

Mr Bardill submitted that a conditions of practice order would be appropriate in addressing the regulatory concerns as it would allow for supervision, training and support, which go to remediation. He submitted that conditions would also protect patients and the public when Miss Wilson returns to nursing practice.

Mr Bardill submitted that the regulatory concerns related to medicine management, in particular, the use of Omnicell. He submitted that the misconduct was, therefore, not only a first but limited in its nature and scope. Mr Bardill submitted that the panel may find that this type of misconduct and impairment is remediable, albeit with the need for willingness and insight from Miss Wilson.

Mr Bardill invited the panel to consider the following conditions:

- Direct supervision when using Omnicell or administering medication.
- Indirect supervision generally on shift.
- Further training and education.
- Periodical reviews of performance and training.
- An obligation to keep the NMC informed.
- Any other condition the panel feel is reasonable and proportionate in achieving one of the regulatory aims in resolving the misconduct and impairment of Miss Wilson.

In response to questions to the panel, Mr Bardill stated that Miss Wilson's current employment status is generally unknown, so there was no evidence to suggest that she has worked as a nurse since she left the Health Board. He also informed the panel that Miss Wilson's interim suspension order has been in place since 10 March 2020.

## Decision and reasons on sanction

Having found Miss 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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- There was a pattern of misconduct over a period of time, whereby Miss Wilson repeated the same mistakes despite completing re-training in the use of Omnicell.
- Miss Wilson's conduct put patients at risk of potential harm.
- Miss Wilson has demonstrated limited insight.
- Miss Wilson has not provided a full reflective account of what went wrong, how it could be avoided and what she would do differently.
- Miss Wilson has not provided evidence of any recent attempts to strengthen her practice, in respect of medicines management.
- Miss Wilson has demonstrated a lack of meaningful engagement with the NMC process.

The panel also took into account the following mitigating features:

- The concerns in this case relate solely to Miss Wilson's use of Omnicell. The panel had heard positive evidence that otherwise, Miss Wilson's practice was good.
- Miss Wilson demonstrated some limited insight by acceptance of poor practice and an apology in 2018.
- Miss Wilson stated in 2018 that she felt overwhelmed by her Band 6 role.
- [PRIVATE]



The panel 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 Miss 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 Miss Wilson's misconduct was not at the lower end of the spectrum due to the repeated errors, and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Wilson's registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel was satisfied that there was an identifiable area of Miss Wilson's practice which was in need of retraining, namely in respect of her use of Omnicell. It took into account that in this case, Miss Wilson had repeated her errors and continued to use Omnicell

incorrectly in 2019, despite having undertaken further training and working under an action plan after the initial incidents in 2018. However, the panel noted that there were no other concerns with Miss Wilson's general nursing practice. The concern with Miss Wilson's practice was limited to the area of dispensing medication using Omnicell, which the panel decided could be sufficiently addressed by conditions of practice.

The panel took into account that Miss Wilson has not worked as a registered nurse since 2020 and there is no information about whether Miss Wilson intends to return to nursing practice, or her willingness to comply with conditions of practice. However, the panel determined that it would be possible to formulate sufficient, appropriate and practical conditions which would address the failings highlighted in this case should she return to practice.

The panel had regard to the fact that previously, Miss Wilson had an unblemished career of three years as a nurse. The panel was of the view that it was in the public interest that, with appropriate safeguards, Miss Wilson should be able to return to practice as a nurse.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate in the circumstances of Miss Wilson's case. The panel noted that the concerns related to one area of Miss Wilson's practice. It considered that suspending Miss Wilson from nursing practice would prevent her from addressing the concerns, developing her skills and demonstrating safe medication management. The panel was satisfied that Miss Wilson's misconduct was not fundamentally incompatible with remaining on the register.

Having regard to the matters it has identified, the panel concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession,

and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Bardill in relation to the NMC's request for a 9-month conditions of practice order with review. In view of Miss Wilson's current personal circumstances, the panel decided that an 18-month conditions of practice order would be fair and reasonable to provide her the opportunity to meaningfully re-engage with the NMC and make efforts to return to nursing practice, should she choose to do so.

The panel determined that the following conditions are appropriate and proportionate in this case:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must be directly supervised by a registered nurse at all times when dispensing medication, until such a time as you have been assessed as competent to do so independently by your line manager, mentor or supervisor (or their nominated deputy).
2. When you are assessed as competent, this needs to be done formally and in writing, and is to be sent to the NMC by you within 7 days of you reaching the required standard to dispense medication without such supervision.
3. You must complete further medicines management training within six months of commencing employment as a registered nurse.

4. You must work with your line manager, mentor or supervisor (or their nominated deputy) to create a personal development plan designed to address the concerns about the following area of your practice:
  - a) Medicines management, including dispensing medicines.
5. You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.
6. You must forward to the NMC a copy of your personal development plan within two months of starting employment.
7. You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC prior to any NMC review hearing or meeting.
8. You must keep us informed about anywhere you are working by:
  - a) Telling your case officer within seven days of accepting or leaving any employment.
  - b) Giving your case officer your employer's contact details.
9. You must keep us informed about anywhere you are studying by:
  - a) Telling your case officer within seven days of accepting any course of study.
  - b) Giving your case officer the name and contact details of the organisation offering that course of study.

10. You must immediately give a copy of these conditions to:
  - a) Any organisation or person you work for.
  - b) Any agency you apply to or are registered with for work.
  - c) Any employers you apply to for work (at the time of application).
  - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
  - e) Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity
  
11. You must tell your case officer, within seven days of your becoming aware of:
  - a) Any clinical incident you are involved in.
  - b) Any investigation started against you.
  - c) Any disciplinary proceedings taken against you.
  
12. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
  - a) Any current or future employer.
  - b) Any educational establishment.
  - c) Any other person(s) involved in your retraining and/or supervision required by these conditions.

The period of this order is for 18 months.

Before the order expires, a panel will hold a review hearing to see how well Miss Wilson has complied with the order. At the review hearing the panel may revoke the order or any

condition of it, it may confirm the order or vary any condition of it, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Miss Wilson's engagement, including her attendance at the review hearing.
- A written reflection which summarises Miss Wilson's understanding of the incidents, and the impact of her actions on patients, colleagues and the reputation of the nursing profession.
- Clarity on Miss Wilson's intentions on returning to nursing practice, and her plans for the future.
- References and testimonials from any paid or unpaid work.

This will be confirmed to Miss Wilson in writing.

### **Interim order**

As the conditions of practice order cannot take effect until the end of the 28-day appeal period, the panel considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Wilson's own interests until the conditions of practice sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took account of the submissions made by Mr Bardill. He submitted that an interim order was required on public protection and public interest grounds for the same reasons given for the substantive conditions of practice order. Mr Bardill invited the panel to make an interim conditions of practice order for a period of 18 months to cover any appeal period until the substantive conditions of practice order takes effect.

## **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 the only suitable interim order would be that of a conditions of practice order in identical terms to those imposed by the panel, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order for a period of 18 months to ensure that Miss Wilson cannot practise without restriction before the substantive conditions of practice order takes effect. This will cover the 28 days during which an appeal can be lodged and, if an appeal is lodged, the time necessary for that appeal to be determined.

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

That concludes this determination.