Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday 5 August 2024 – Friday 23 August 2024
Tuesday 27 August 2024 – Wednesday 28 August 2024
Friday 30 August 2024 – Wednesday 11 September 2024
Monday 2 December 2024 – Friday 6 December 2024 (in camera)
Thursday 2 January 2025 – Friday 3 January 2025 (in camera)
Friday 7 March 2025
Monday 10 March 2025 – Friday 14 March 2025
Monday, 17 March 2025- Thursday 20 March 2025

Virtual Hearing

Name of Registrant:	**Christos Provistallis**
NMC PIN:	16K0155C
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – (November 2016)
Relevant Location:	Devon
Type of case:	Misconduct
Panel members:	Philip Sayce (Chair, Registrant member) Rosalyn Mloyi (Registrant member) Alison James (Lay member)
Legal Assessor:	Alice Robertson Rickard
Hearings Coordinator:	Charis Benefo (5 August 2024 – 6 December 2024 and 7 – 14 March 2025) Franchessca Nyame (2 – 3 January 2025) Nicola Nicolaou (17 March 2025) Bethany Seed (18 – 20 March 2025)
Nursing and Midwifery Council:	Represented by Mohsin Malik, Case Presenter
Mr Provistallis:	Not present and unrepresented

Facts proved:	Charges 1a, 1b, 1c, 1d, 2a, 2b, 2c, 2d, 2e, 3a, 3b, 3c)i, 3c)ii, 3c)iii, 4a, 4b and 5
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Provistallis was not in attendance and that the Notice of Hearing letter had been sent to Mr Provistallis' registered email address by secure email on 8 July 2024.

Mr Malik, 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.

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 Mr Provistallis' right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Provistallis 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 Provistallis

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

Mr Malik told the panel that the NMC had emailed Mr Provistallis on 9 April 2024 informing him of the dates of the hearing, and the Case Management Form (CMF) was also sent to him to complete and return. Mr Provistallis did not return a completed CMF but responded in an email dated 9 April 2024, which stated:

> '*I don't want to continue to be a nurse.*
> *I want to delete my name from NMC.*'

Mr Malik submitted that in response, the NMC informed Mr Provistallis that if he wanted his name removed from the NMC register, he would need to make an application for agreed removal. The link to this application was sent to Mr Provistallis and he was provided with further information on how to complete it. Mr Malik submitted that the NMC had not yet received a completed CMF or an agreed removal application from Mr Provistallis.

Mr Malik submitted that there had been no engagement by Mr Provistallis with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure his attendance on some future occasion.

Mr Loggenberg, on Registrant A's behalf, indicated that there was no objection to the matter of proceeding in Mr Provistallis' absence. He submitted that should the panel decided to adjourn the hearing in order to hear Mr Provistallis' case, it should not affect Registrant A's hearing proceeding today.

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 has decided to proceed in the absence of Mr Provistallis. In reaching this decision, the panel has considered the submissions of Mr Malik, the written representations from Mr Provistallis, 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* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Provistallis;
- Mr Provistallis had engaged with the NMC to some extent until 9 May 2024, but has stopped engaging and has not responded to any of the correspondence sent to him about this hearing;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- This hearing is being heard as a joinder case with Registrant A, who has attended with a representative;
- Numerous 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 2021;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Provistallis in proceeding in his absence. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his 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, he has provided a written response which the panel can take into account.

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

Details of charge

That you, a Registered Nurse, at the Holmesley Nursing Home:

1. Between 28 February 2021 – 2 March 2021, on one or more occasions, you failed to follow infection control procedures by:
   a) Not wearing a face mask either at all or properly;
   b) Not wearing gloves;
   c) Not washing and/or sanitising your hands between attending to different residents;
   d) Working whilst having Covid type symptoms.

2. Between 1 – 2 March 2021, when giving medication to Resident A, you:
   a) were not wearing a face mask;
   b) were coughing;
   c) were not wearing gloves;
   d) did not wash your hands before giving medication to Resident A;
   e) put your hands close to Resident A's mouth.

3. Between 1 March 2021- 2 March 2021, you;
   a) Did not take a lateral flow test at start of your shift;
   b) After taking a positive Lateral Flow Test, you told Colleague A words to the effect that the positive test was not real as Covid was not real, without clinical justification;
   c) After taking 2 Lateral Flow Tests, you concealed and/or attempted to conceal the positive results by:
      i) Putting the positive tests in your pocket;
      ii) not logging/recording the positive results in the test log;
      iii) not disposing of the positive tests with your initials on, in a clinical waste bucket.

4. Your conduct at all and/or any of Charge 3c was dishonest, in that you:
    a) Knew that you had tested positive for Covid in 2 Lateral Flow Tests;
    b) Intended to create the misleading impression that you had not tested positive.

5. Your conduct at any and/or all of charges 1 – 3 put residents and/or staff at risk of serious harm.

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

Background

The NMC received a referral in respect of Mr Provistallis on 22 March 2021. Mr Provistallis first entered onto the NMC's register on 30 November 2016.

The allegations in this case arose whilst Mr Provistallis was employed at Holmesley Nursing Home (the Home) as a Registered Nurse. Mr Provistallis started working at the Home in October 2020.

In 2021, the Home had a serious COVID-19 outbreak, which led to the deaths of nine residents. The first known case of COVID-19 at the Home was believed to have been a member of staff on or around 25 February 2021, and a more general outbreak was identified in residents and staff from 2 March 2021 onwards.

It is alleged that between 28 February 2021 and 2 March 2021, Mr Provistallis was inconsistent with wearing a face mask whilst he was at work, and he had to be told on numerous occasions to wear his mask. Mr Provistallis' position was that he felt he could not breathe when he wore the face mask. [PRIVATE]

It is alleged that Mr Provistallis did not believe that COVID-19 was real. He allegedly expressed these opinions to others both in and outside the work environment.

On 28 February 2021, Mr Provistallis was unwell at work, but claimed that he did not have COVID-19 symptoms. Mr Provistallis took a lateral flow test (LFT), and he allegedly said that the test result was negative and continued to work. It is alleged that Mr Provistallis did not wear his mask for the entire shift, but he did when he was asked to by the Deputy Manager, Witness 4.

During the night shift of 1 and 2 March 2021, Mr Provistallis was encouraged to take a lateral flow test by his colleagues as he was coughing, sweating profusely and appeared generally unwell during his shift. It is alleged that Mr Provistallis was not wearing a mask

while he was working with vulnerable patients. Mr Provistallis had two positive lateral flow test results. He isolated in an empty room upstairs in the Home whilst he waited for his transportation in the morning; he was unable to leave straight away as he did not drive. He was subsequently hospitalised with COVID-19.

The police investigated Mr Provistallis for alleged wilful neglect and subsequently decided to take no further action.

Mr Provistallis resigned from the Home on 17 March 2021.

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 Malik on behalf of the NMC and the written submissions provided in the letter from Mr Provistallis' solicitor dated 27 September 2023.

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

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: Nurse at the Home at the time of the concerns;
- Witness 2: Managing Director for Welford Healthcare Ltd and Director of Business at the Home at the time of the concerns;
- Witness 3: Care Assistant at the Home at the time of the concerns;
- Witness 4: Deputy Manager at the Home at the time of the concerns;

- Witness 5: CQC Compliance Inspector who conducted two site visits at the Home on 19 and 26 February 2021;
- Witness 6: Senior Care Assistant at the Home at the time of the concerns;
- Witness 7: Housekeeper and Care Assistant at the Home at the time of the concerns;
- Witness 8: Care Assistant who worked two shifts at the Home in March 2021;
- Witness 9: Care Lead at the Home at the time of the concerns;
- Witness 10: Healthcare Assistant at the Home at the time of the concerns;
- Witness 11: Healthcare Assistant at the Home at the time of the concerns; and
- Witness 12: Agency Nurse who was working at the Home at the time of the concerns.

The panel also took account of the police statements and witness statements from the following witnesses on behalf of the NMC, which were admitted as hearsay evidence following the agreement of the NMC and Registrant A:

- Witness 13: Activities Manager at the Home at the time of the concerns;
- Witness 14: Housekeeper at the Home at the time of the concerns;
- Witness 15: Live-in carer at the Home at the time of the concerns; and
- Dr 18: GP for patients at the Home.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

Charge 1a

That you, a Registered Nurse, at the Holmesley Nursing Home:

1. *Between 28 February 2021 – 2 March 2021, on one or more occasions, you failed to follow infection control procedures by:*
   a) *Not wearing a face mask either at all or properly*

This charge is found proved.

In reaching this decision, the panel first considered whether Mr Provistallis had a duty to wear a face mask at all or properly whilst on shift at the Home between 28 February 2021 and 2 March 2021. The panel noted the Home's '*Mark* [sic] *wearing protocol and additional PPE guidance supervision – February 2020*' document which set out:

'*Key principles of mask wearing in a care home:*

- *A mask must be worn at all times when on shift at Holmesley by all team members.*

Exceptions:

  - *When on your break and outside the home*
  - *When taking a drink during your shift - but this must not be in a resident area and a new mask must be put back on immediately after you have finished having a drink*
  - *When eating/drinking on your break inside the home - but this must not be in a resident area and you must put on a new mask immediately after you have finished eating/drinking.*

- *The mask must be worn over your nose and mouth at all times. It should never be around your neck or chin etc.*
- *Only masks provided by the home may be worn (all Holmesley masks are Type IIR)*
- *The mask is worn to protect you and can be used while caring for a number of different residents regardless of their symptoms.*
- *You should not touch your face mask unless it is to put it on or remove it.*
- *You should remove and dispose of the mask if it becomes damaged, visibly soiled, damp, or uncomfortable to use.*
- *Masks can be used continuously while providing care, until you take a break from duties (e.g. to drink, eat, for your break time or end of shift).*
- *You need to use a new mask when you re-start your duties after a break.*
- *You need to use a new mask and put it on immediately after you have finished eating/ drinking or you are reentering the care home after a break.*'

The panel was therefore satisfied that there was a duty on Mr Provistallis to wear a mask.

The panel took into account Mr Provistallis' partial admissions both in his police interview and the letter from his solicitor dated 27 September 2023. The letter from Mr Provistallis' solicitor stated:

‘*b. <u>Did not wear adequate PPE</u>*

This is accepted, in so far as Mr Provistalis accepts that he wore a mask in residents’ rooms to administer medication but often did not wear a mask in other communal areas of the Home as he had trouble breathing properly whilst wearing one.

Mr Provistalis accepts that he understood that the requirement was for all staff to wear a mask at all times whilst in the Home. He would like to make the Case Examiners aware that he followed the lead of many of his colleagues at the Home, who also did not wear a mask at all times, however he accepts full responsibility for this own decision not to wear a mask.

[PRIVATE]’

In addition, Mr Provistallis’ record of interview at Exeter Police Station on 25 March 2021 stated:

‘*[Interviewer]:* *[PRIVATE]?*
[Interpreter]: *(Translates).*
[PROVISTALIS]: *(Speaks).*
[Interpreter]: *No.*’

The panel noted that Mr Provistallis’ explanation for not wearing a face mask whilst on shift was [PRIVATE].

Mr Provistallis’ position appeared to be that it was acceptable not to wear a mask. The panel did not accept this because Mr Provistallis had a meeting with Witness 4 about staff concerns regarding his mask wearing. Witness 3’s police statement dated 20 April 2021, stated that:

'*[Registrant A] asked me to make sure that Christos PROVISTALIS didn't voice his opinions within the team and that he followed guidelines. We had both had conversations with him. After a week or so, night staff started commenting that Christos PROVISTALIS had commented that COVID wasn't real. [Registrant A] asked me to have a disciplinary meeting with Christos PROVISTALIS so that it was documented. I did this with [Witness 9]. I told Christos PROVISTALIS that he couldn't voice his opinions in the home, and he is to make sure that he sticks to the guidelines and wears PPE as per guidance. He said that he would, but he did seem to sort of try to brush it off. I told him that it was serious, that COVID can spread and that he had to wear his mask. He told me [PRIVATE]. My response to this was that he had to wear a mask on his med rounds and out on the floor, but in his office, he could take it off, if no one was in there. He agreed to this and he signed paperwork. Apart from this instance no one else had reported anything else to me. I would see him with his mask down, so I would tell him to pull it up, which he would do, when I asked.*'

The panel noted that Registrant A had corroborated this account in oral evidence.

The panel noted Witness 9's witness statement dated 4 August 2024, which stated:

'*In my conversations with Christos, it became apparent that he did not believe in COVID. He outright refused to wear a mask, when all staff should have been doing so, at the material time. I recall a conversation I had with him, where he specifically said he did not believe in COVID. He stated he thought it was a regular virus, such as the flu. He stated that he did not believe the virus killed people, and explained it was a marketing ploy to gain money. He also stated he did not believe anyone could become genuinely ill from it. I found this conversation with him extremely difficult. It was highly stressful to explain to someone COVID was not a joke, and the virus was killing people.*

On one occasion I recall administering care to a resident with Christos. We went into this residents room. At this point, he should have been in full PPE and wearing his mask. On this occasion, he went in holding his chin, and did not have his mask on.'

The panel also noted Witness 11's witness statement dated 5 August 2024, which stated:

'*There was one particular shift I was concerned about Christos, I can't recall the exact date due to the passing of time. I was working a night shift with him and he looked visibly very poorly. He was coughing a lot and dripping with sweat. He also wasn't wearing a mask at this time and continued to administer care to residents, whilst he could have potentially been carrying the virus.*'

The panel took into account Witness 10's police statement dated 22 March 2021, which stated:

'*Throughout the night I passed the Night Nurse who stated he wasn't feeling well. I asked him to wear a mask as it was Company Policy to wear PPE. He stated again he wasn't feeling well and didn't need to. I reiterated this several times throughout the night shift.*

...

[Witness 3] told him with expressed concern he was to put a mask on and head to the room 219 until the management had called back and told us the plan of action. Cristos then went to the room 219 as [Witness 3]'s request wearing a mask for the first time that shift.'

In addition, it noted Witness 3's witness statement dated 12 March 2022, which stated:

'*Christos never wore a mask and I never saw him wash his hands between attending to residents...*

...

During this shift Christos had been coughing everywhere. As I was helping him to eat Christos came into the room to covertly give his medication. He was not wearing a mask and he did not wash his hands. He put his hands to Resident A's mouth while coughing so it was cross contamination close to Resident A's mouth.

...

I then told Christos that he needed to wear his mask and go home. He was not taking this seriously and there was no management on shift so I told him that I would ring management to get cover for his shift but he said he needed to begin medication rounds. I told Christos that he could not go into any more of the resident's room.'

The panel also took into account Witness 8's police statement dated 24 March 2021, which stated:

'*...the NURSE walked towards us. [Witness 10] came out of the office into the corridor and I asked her "WHO'S THAT?". She replied "THAT'S THE NURSE, CHRISTOS (or CHRISTOPHE)" and I asked where is his mask and gloves? At that point the NURSE reached us and introduced himself to me, shaking my hand. I took his hand, as I was wearing gloves, but asked him "WHERE'S YOUR MASK?" The NURSE replied "I DON'T LIKE THEM" and I said "YEAH, BUT YOU HAVE TO WEAR ONE". He repeated "I DON'T LIKE THEM", in a carefree way like I would say I don't like broad beans.*'

In view of Mr Provistallis' partial admission, as well as the consistent evidence from various members of staff at the Home, the panel was satisfied that on the balance of probabilities, on one or more occasions, Mr Provistallis failed to follow infection control procedures by not wearing a face mask either at all or properly whilst on shift at the Home between 28 February 2021 and 2 March 2021. It therefore found charge 1a proved.

Charge 1b

That you, a Registered Nurse, at the Holmesley Nursing Home:

1. *Between 28 February 2021 – 2 March 2021, on one or more occasions, you failed to follow infection control procedures by:*
   b) Not wearing gloves

This charge is found proved.

In reaching this decision, the panel first considered whether Mr Provistallis had a duty to wear gloves whilst on shift at the Home between 28 February 2021 and 2 March 2021. The panel noted Public Health England's '*COVID-19 Personal protective equipment (PPE) – resource for care workers working in care homes during sustained COVID-19 transmission in England*' document which set out:

> '*When providing close personal care in direct contact with the resident(s) (e.g. touching) OR within 2 metres of any resident who is coughing*
>
> | *Recommended PPE items* | *Explanation* |
> | --- | --- |
> | *Disposable gloves* | *Single use to protect you from contact with residents' body fluids and secretions. Vinyl gloves provide sufficient protection for the majority of duties in the care environment, providing the correct size of glove is chosen according to the wearer's hand size. If there is a risk of gloves tearing, or the task requires a high level of dexterity, or requires an extended period of wear, then an alternative better fitting glove (e.g nitrile) should be considered. If a change* |

of gloves is required during a task because the glove is torn or punctured, then hand hygiene is needed after removal of the original gloves. Hands should be thoroughly dried to make the donning of new gloves easier and reducing the risk of gloves tearing before donning a clean pair. Providers need to consider the characteristics of the different gloves available for the duties the care workers are doing. This includes the gloves required in relation to cleaning products.'

The panel was therefore satisfied that there was a duty on Mr Provistallis to wear gloves.

The panel took into account Mr Provistallis' admission that he did not wear gloves in the record of interview at Exeter Police Station on 25 March 2021:

'*[Interviewer]:*	*Right okay. When you went into the resident's rooms were you wearing anything else?*
[Interpreter]:	*(Translates).*
[PROVISTALIS]:	*(Speaks).*
[Interpreter]:	*No only the mask.*
[Interviewer]:	*Okay so you would go into the resident's room, wearing just your mask, with no gloves?*
[Interpreter]:	*(Translates).*
[PROVISTALIS]:	*(Speaks).*
[Interpreter]:	*They never tell us to wear mask, er gloves, sorry.*'

The panel noted Witness 3's email dated 11 March 2021 which stated:

‘*Whilst assisting Resident A with eating prior to settling for the night, Christos came in to give Resident A his medication. He gave Resident A his medication on a spoon with some yoghurt, wearing no gloves or mask and didn't wash his hands afterwards before leaving the room. There are several residents that have their medication spoon fed and his contaminated hands havent been washed in-between this close contact with all of their mouths.*’

Witness 3’s police statement dated 19 April 2021 also stated:

‘*Another resident, Res. A had some of his food left, so I anted [sic] to help him eat that before he got too tired. He was in a his recliner chair. I got a chair and sat next to him, I had his food set up on a side table next to us. He had his bib resting on his lap and I began to feed him when Christos came in with his night medication. Res. A has his medicine on a spoon with some yoghurt. Christos didn't have any gloves on, and I didn't see him wash his hands before. He gave Res. A his medication, putting the spoon in Res. A mouth. Christos was coughing. He didn't have gloves, and didn't complete any hand hygiene that I saw, then putting his hands to the Res. A mouth. He could have been doing this in every room.*

...

Christos also wasn't wearing a mask. He isn't very good with his mask. We were always saying to him. He is aware that it is the policy in the home. He didn't wear his. I had previously spoken to him about his mask and he had told me that if effected his breathing, so he didn't wear it. I told him that he was supposed to, that it is for the safety of the residents. I did feel uncomfortable speaking to him about it, he is my superior. I don't know what the policy is with gloves, but he didn't usually wear them.’

The panel took into account Witness 8’s witness statement dated 22 July 2024, which stated:

'*The COVID measures at the Home were covered apart for one individual, he was Kirstos. I remember he went and gave the residents medication on the Monday evening. He wasn't wearing any uniform, no mask, no gloves. He didn't have any uniform on. I think he was the nurse in charge; he handled all the medication and gave the residents their medication. I remember he acted as a carer, but more of a senior carer because he was handling all the medication and administrating it.*'

In addition, Witness 8 stated in her police statement dated 24 March 2021 that:

'*We then split into two groups and started work. [Witness 3] and I answered a bell that one of the residents rang for assistance, and as we walked out of their room and down the corridor the NURSE walked towards us. [Witness 10] came out of the office into the corridor and I asked her "WHO'S THAT?". She replied "THAT'S THE NURSE, CHRISTOS (or CHRISTOPHE)" and I asked where is his mask and gloves? At that point the NURSE reached us and introduced himself to me, shaking my hand. I took his hand, as I was wearing gloves, but asked him "WHERE'S YOUR MASK?" The NURSE replied "I DON'T LIKE THEM" and I said "YEAH, BUT YOU HAVE TO WEAR ONE". He repeated "I DON'T LIKE THEM", in a carefree way like I would say I don't like broad beans.*

…I told [Witness 3] and [Witness 10] that I wasn't prepared to go near the NURSE and he shouldn't be going near the residents without mask and gloves.'

In view of Mr Provistallis' admission, as well as the consistent evidence from Witness 3 and Witness 8, the panel was satisfied that on the balance of probabilities, on one or more occasions, Mr Provistallis failed to follow infection control procedures by not wearing gloves whilst on shift at the Home between 28 February 2021 and 2 March 2021. It therefore found charge 1b proved.

Charge 1c

That you, a Registered Nurse, at the Holmesley Nursing Home:

1. *Between 28 February 2021 – 2 March 2021, on one or more occasions, you failed to follow infection control procedures by:*
   c) *Not washing and/or sanitising your hands between attending to different residents*

This charge is found proved.

In reaching this decision, the panel first considered whether Mr Provistallis had a duty to wash and/or sanitise his hands between attending to different residents whilst on shift at the Home between 28 February 2021 and 2 March 2021. The panel had regard to the '*Team Member Guidance on COVID-19*' which was issued on 17 November 2020 for members of staff at the Home. This guidance stated:

> '*Hand washing*
> *- Good hand hygiene remains a vital tool against the spread of the virus. Please ensure hands are washed in accordance with the following handwashing regime:*
> *o before leaving home*
> *o on arrival at work (wash up to your elbows)*
> *o in between any interactions with different residents*
> *o after using the toilet*
> *o after breaks and activities*
> *o before food preparation*
> *o before eating any food, including snacks*
> *o before leaving work*
> *o on arrival at home*
> *o in line with procedures when barrier nursing a resident.*
> *- Team members must also:*
> *o avoid touching your face*

o avoid all physical contact wherever possible
o clean and disinfect frequently touched objects and surfaces
- Residents must also be encouraged and supported to wash their hands continuously throughout the day'.

In addition, the panel noted the guidance from Witness 2 dated 13 March 2020 which stated:

'*The coronavirus is a serious condition. Thankfully amongst the healthy the chances of survival are very high, however the chances of survival amongst the elderly is worrying. It is estimated to be between 4-40 times more deadly than the flu. Should this coronavirus find its way into our care home the chances of a significant number of fatalities amongst the vulnerable adults we care for is high. For this reason we must do everything we possibly can to prevent the spread of the disease. The simplest way to do this is by thorough hand washing, mostly importantly when you leave home and as you enter the building, but also continually throughout the day*'.

In further guidance dated 19 March 2020, Witness 2 indicated:

'*What we must do*
- Wash your hands continually throughout the day – always before entering the building'

The panel was therefore satisfied that there was a duty on Mr Provistallis to wash and/or sanitise his hands between attending to different residents.

The panel took into account Witness 3's police statement dated 19 April 2021, which stated:

‘*Another resident, Res. A had some of his food left, so I anted [sic] to help him eat that before he got too tired. He was in a his recliner chair. I got a chair and sat next to him, I had his food set up on a side table next to us. He had his bib resting on his lap and I began to feed him when Christos came in with his night medication. Res. A has his medicine on a spoon with some yoghurt. Christos didn't have any gloves on, and I didn't see him wash his hands before. He gave Res. A his medication, putting the spoon in Res. A mouth. Christos was coughing. He didn't have gloves, and didn't complete any hand hygiene that I saw, then putting his hands to the Res. A mouth. He could have been doing this in every room.*’

It also noted Witness 3’s email dated 11 March 2021 which stated:

‘*As well as not wearing his mask, Christos' hand hygiene is also a concern. Whilst assisting Res. A with eating prior to settling for the night, Christos came in to give Res. A his medication. He gave Res. A his medication on a spoon with some yoghurt, wearing no gloves or mask and didn't wash his hands afterwards before leaving the room. There are several residents that have their medication spoon fed and his contaminated hand havent been washed in-between this close contact with all of their mouths.*’

The panel further took into account Witness 3’s witness statement dated 12 March 2022, which stated:

‘*Christos never wore a mask and I never saw him wash his hands between attending to residents. I also never saw him use the sink or the hand sanitizers placed outside the rooms. I am not saying he never did any of these things but I never personally witnessed him do them. I don't know the Home's policy about washing hands and wearing gloves but whenever I do the medication round I make sure my hands are sanitised before I proceed and would expect this of everyone dealing with the residents.*’

The panel considered that there was consistent evidence from Witness 3 regarding her concerns about Mr Provistallis' hand hygiene at the time. It was therefore satisfied that on the balance of probabilities, on one or more occasions, Mr Provistallis failed to follow infection control procedures by not washing and/or sanitising his hands between attending to different residents whilst on shift at the Home between 28 February 2021 and 2 March 2021. It therefore found charge 1c proved.

Charge 1d

That you, a Registered Nurse, at the Holmesley Nursing Home:

1. *Between 28 February 2021 – 2 March 2021, on one or more occasions, you failed to follow infection control procedures by:*
   d) Working whilst having Covid type symptoms

This charge is found proved.

In reaching this decision, the panel first considered whether Mr Provistallis had a duty not to work whilst having COVID-19 type symptoms. The panel had regard to the '*Team Member Guidance on COVID-19*' which was issued on 17 November 2020 for members of staff at the Home. This guidance stated:

> '*If a team member develops symptoms or has a positive COVID-19 test whilst working*
> *- If the team member is at work: they should wash their hands and go home immediately, leaving all their belongings. They should call the Duty Manager immediately after they leave. They should then go and get themselves tested ASAP and self-isolate whilst awaiting a result*'

In addition, the panel noted the guidance from Witness 2 dated 13 March 2020 which stated:

‘*We are also asking that if any employee feels unwell (particularly with a new cough, high temperature or shortness of breath) or if you have been around someone who is unwell or went on to be unwell soon after, please do not come into work. Please give us as much notice as you possibly can but do not take the risk. In such cases please let the Home Manager know.*’

The panel was therefore satisfied that there was a duty on Mr Provistallis not to attend for work and/or continue working whilst having COVID-19 type symptoms.

The panel took into account Witness 3’s witness statement dated 12 March 2022, which stated:

‘*During this shift Christos had been coughing everywhere. As I was helping [Resident A] to eat Christos came into the room to covertly give his medication. He was not wearing a mask and he did not wash his hands. He put his hands to Resident A's mouth while coughing so it was cross contamination close to Resident A's mouth.*’

The panel considered that it was clear from Witness 3’s evidence that Mr Provistallis was working whilst having COVID-19 type symptoms.

The panel also noted Witness 11’s police statement dated 20 April 2021 in which she stated:

‘I remember that Christos was the only person working my last shift, that I observed and would describe as looking physically unwell. I believe that he was showing classic symptoms of COVID. When I spoke to him, I could physically see that he was pouring with sweat and he complained that he felt both hot and exhausted. It was quite obvious to me, that Christos was not a well person. This is not his normal state he is a fit and healthy man. When I asked him about his health and my concerns, Christos said that he just had the flu.

...

Christos was still showing flu symptoms to me. He was still hot, sweating and I could see it running off his forehead.

...

When all the care staff were in office, ..., I expressed surprise that Christos was in work being that poorly...'

The panel further noted Witness 8's police statement dated 24 March 2021, which stated:

'*...At around 00:30-01:00 we saw the NURSE in the office and he was coughing and spluttering as he told us that he was feeling unwell and was going to bed. He said if we needed anything we should knock on his door.*'

Further, in oral evidence, Witness 7 told the panel that she worked with Mr Provistallis and he had cold-like symptoms, including a sore throat and runny nose, although she could not recall whether he was coughing.

In view of the consistent evidence from various members of staff at the Home, the panel was satisfied that on the balance of probabilities, on one or more occasions, Mr Provistallis failed to follow infection control procedures by working whilst having COVID-type symptoms at the Home between 28 February 2021 and 2 March 2021. It therefore found charge 1d proved.

Charge 2

That you, a Registered Nurse, at the Holmesley Nursing Home:

2. *Between 1 – 2 March 2021, when giving medication to Resident A, you:*
    a) *were not wearing a face mask*
    b) *were coughing*
    c) *were not wearing gloves*
    d) *did not wash your hands before giving medication to Resident A*

e) put your hands close to Resident A's mouth

This charge is found proved.

In reaching this decision, the panel took into account Witness 3's email dated 11 March 2021 which stated:

> '*Whilst assisting Resident A with eating prior to settling for the night, Christos came in to give Resident A his medication. He gave Resident A his medication on a spoon with some yoghurt, wearing no gloves or mask and didn't wash his hands afterwards before leaving the room. There are several residents that have their medication spoon fed and his contaminated hands havent been washed in-between this close contact with all of their mouths.*'

The panel also took into account Witness 3's witness statement dated 12 March 2022, which stated:

> '*Christos never wore a mask and I never saw him wash his hands between attending to residents. I also never saw him use the sink or the hand sanitizers placed outside the rooms. I am not saying he never did any of these things but I never personally witnessed him do them. I don't know the Home's policy about washing hands and wearing gloves but whenever I do the medication round I make sure my hands are sanitised before I proceed and would expect this of everyone dealing with the residents.*
>
> *During this shift [on 1 March 2021] Christos had been coughing everywhere. As I was helping him to eat Christos came into the room to covertly give his medication. He was not wearing a mask and he did not wash his hands. He put his hands to Resident A's mouth while coughing so it was cross contamination close to Resident A's mouth.*

I then told Christos that he needed to wear his mask and go home. He was not taking this seriously and there was no management on shift so I told him that I would ring management to get cover for his shift but he said he needed to begin medication rounds. I told Christos that he could not go into any more of the resident's room.'

Witness 3's police statement dated 19 April 2021 also stated:

'*Another resident, Res. A had some of his food left, so I anted [sic] to help him eat that before he got too tired. He was in a his recliner chair. I got a chair and sat next to him, I had his food set up on a side table next to us. He had his bib resting on his lap and I began to feed him when Christos came in with his night medication. Res. A has his medicine on a spoon with some yoghurt. Christos didn't have any gloves on, and I didn't see him wash his hands before. He gave Res. A his medication, putting the spoon in Res. A mouth. Christos was coughing. He didn't have gloves, and didn't complete any hand hygiene that I saw, then putting his hands to the Res. A mouth. He could have been doing this in every room.*

Christos also wasn't wearing a mask. He isn't very good with his mask. We were always saying to him. He is aware that it is the policy in the home. He didn't wear his. I had previously spoken to him about his mask and he had told me that if effected his breathing, so he didn't wear it. I told him that he was supposed to, that it is for the safety of the residents. I did feel uncomfortable speaking to him about it, he is my superior. I don't know what the policy is with gloves, but he didn't usually wear them.'

The panel also had regard to Witness 8's police statement dated 24 March 2021, which stated:

'*We then split into two groups and started work. [Witness 3] and I answered a bell that one of the residents rang for assistance, and as we walked out of their room*

and down the corridor the NURSE walked towards us. [Witness 10] came out of the office into the corridor and I asked her "WHO'S THAT?". She replied "THAT'S THE NURSE, CHRISTOS (or CHRISTOPHE)" and I asked where is his mask and gloves? At that point the NURSE reached us and introduced himself to me, shaking my hand. I took his hand, as I was wearing gloves, but asked him "WHERE'S YOUR MASK?" The NURSE replied "I DON'T LIKE THEM" and I said "YEAH, BUT YOU HAVE TO WEAR ONE". He repeated "I DON'T LIKE THEM", in a carefree way like I would say I don't like broad beans.

…I told [Witness 3] and [Witness 10] that I wasn't prepared to go near the NURSE and he shouldn't be going near the residents without mask and gloves.'

The panel was mindful of the letter from Mr Provistallis' solicitor dated 27 September 2023. The panel noted that Mr Provistallis did not accept not wearing a mask in residents' rooms when administering medication. However, the weight of the evidence was contrary to Mr Provistallis' position, and so the panel did not accept his account. The panel preferred the evidence of Witness 3 and Witness 8 in respect of this charge because of the information relating to Mr Provistallis' attitude towards COVID-19 and the use of PPE.

The panel was therefore satisfied that on the balance of probabilities, between 1 – 2 March 2021, when giving medication to Resident A, Mr Provistallis was not wearing a face mask, was coughing, was not wearing gloves, did not wash his hands before administering medication, and put his hands close to Resident A's mouth. It therefore found charge 2 proved in its entirety.

Charge 3a

That you, a Registered Nurse, at the Holmesley Nursing Home:

3. *Between 1 March 2021- 2 March 2021, you;*
    a) *Did not take a lateral flow test at start of your shift*

This charge is found proved.

In reaching this decision, the panel took into account Witness 10's police statement dated 22 March 2021, which stated:

> '*I was in the Nurses office completing Care Plans for the residents of the Home as this is my normal job to complete. When sitting there Cristos the Nurse came in saying again he wasn't feeling well, I asked him kindly and respectfully to put on a mask. He then stated he didn't need to as he wasn't feeling well. I then asked Cristos the nurse if he had completed a Lateral Flow Test (LFT) or a Polymerase Chain Reaction Test (PCR) as this is company policy and following Public Health England's requirements. He then stated to me he hadn't done any tests that week.*'

The panel also noted the letter from Mr Provistallis' solicitor dated 27 September 2023 which stated:

> '*To clarify, Mr Provistalis completed a lateral flow test during his night shift on 1-2 March, which was positive.*'

Based on this evidence, the panel drew a reasonable inference that Mr Provistallis took a lateral flow test during his shift between 1 March 2021 and 2 March 2021, but that it was not taken at the start of his shift. the panel therefore found charge 3a proved.

Charge 3b

That you, a Registered Nurse, at the Holmesley Nursing Home:

3. *Between 1 March 2021- 2 March 2021, you;*
    b) *After taking a positive Lateral Flow Test, you told Colleague A words to the effect that the positive test was not real as Covid was not real, without clinical justification*

This charge is found proved.

In reaching this decision, the panel took into account Colleague A/Witness 10's police statement dated 22 March 2021, which stated:

> '*I suggested to him it may be best to complete one as he wasn't feeling well. He then completed a test which tested positive. I then handed in front of him the Staff number's folder and told him to contact [Registrant A] and [Witness 4] as a case of importance and leave the Care Home immediately. I then had to attend a call bell request, so I left Cristos in the Nurses Office.*
>
> *On returning to continue my job, completing care plans for residents of the home I asked Cristos the nurse if he had contacted any of the Management and he stated No as this wasn't real. I expressed my concerns very strongly. I again questioned him on his actions. I followed up on saying "Cristos you should complete another test if you feel it wasn't correct".*'

The panel considered that this account was consistent with Colleague A/Witness 10's witness statement and oral evidence. It therefore accepted her account and found that on the balance of probabilities, between 1 March 2021- 2 March 2021, after taking a positive Lateral Flow Test, Mr Provistallis told Colleague A words to the effect that the positive test was not real as COVID-19 was not real.

The panel noted the letter from Mr Provistallis' solicitor dated 27 September 2023 which stated:

> '*As already explained, Mr Provistalis was a COVID sceptic and therefore was less inclined to believe the result of his first lateral flow test, hence him undertaking a second test.*'

The reference to Mr Provistallis being a COVID sceptic supports that suggestion that he did not think COVID was real.

The panel considered that there was no clinical justification for what Mr Provistallis said, nor did the panel have any evidence before it that could have justified what he said. It was therefore satisfied that what Mr Provistallis said was without clinical justification, and it found charge 3b proved.

Charge 3c)i

That you, a Registered Nurse, at the Holmesley Nursing Home:

3. *Between 1 March 2021- 2 March 2021, you;*
    c) *After taking 2 Lateral Flow Tests, you concealed and/or attempted to conceal the positive results by:*
        i) Putting the positive tests in your pocket

This charge is found proved.

In reaching this decision, the panel took into account Witness 3's police statement dated 19 April 2021, which stated:

> '*I took my gloves off, washed my hands and went downstairs. Christos was in the nurses office. I went in and asked him about the tests in his pocket. He denied having any. I asked him to see them, he denied having them again. Eventually he took one test out of his pocket and put it on the table. It had two lines on it, which is a positive result. He then denied there was another test.*
>
> *Next to Res. A room is a shelf, on the shelf is a white folder that you log the LFT in. You log the serial number, and date. I got it to log Christos's first test in it. I checked that he hadn't logged it before, he hadn't. I don't think he would have logged them at all if [Witness 10] hadn't known. Christos then handed me his second test from*

his pocket, this test was positive too. He still wasn't wearing a mask. I asked him to put a mask on and he smiled, he wasn't taking it seriously at all. He didn't see an issue. I told Christos that we needed to ring management and get someone in to replace him as the morning medication round needed to be started soon.

Witness 10 told the panel in oral evidence that Mr Provistallis took two lateral flow tests and put them in his pocket as if to conceal them, so there was no physical evidence of the positive tests.

The panel then took into account Mr Provistallis' record of interview at Exeter Police Station on 25 March 2021:

'*[Interviewer]:*	*Okay so you're in the office, you took a test, you put it onto the desk and you waited for the period of time that was required until you'd got the result is that right?.*
[Interpreter]:	*(Translates).*
[PROVISTALIS]:	*Yes I'm in the office.*
...	
[PROVISTALIS]:	*For fifteen minutes to wait to see. (Speaks).*
[Interpreter]:	*Yes I am fifteen minutes in the office and I'm waiting to see the result.*
[Interviewer]:	*Okay and [Witness 10] was with you at that time?*
Interpreter]:	*(Translates).*
[PROVISTALIS]:	*(Speaks).*
[Interpreter]:	*Yes she was in the office.*
[Interviewer]:	*Okay. What was the result at that time?*
...	
[Interpreter]:	*Positive.*
[Interviewer]:	*Positive. Who else saw the results at that time?*
...	
[Interpreter]:	*I think [Witness 8].*

...

[Interviewer]: *What did you do with the swab?*

...

[Interpreter]: *Okay obviously I done nothing because I become surprise, very surprise, what um, er happened.*

...

[Interpreter]: *I done a second one.*

...

[Interviewer]: *Okay and who was present when you did the second test?*

...

[Interpreter]: *No I think [Witness 10] come out of the office I was alone, I done it.*

[Interviewer]: *And what was the result of that one?*

...

[Interpreter]: *Positive.*

[Interviewer]: *And where did you put that result?*

...

[Interpreter]: *Because I like to say the truth like you say lies.*

[PROVISTALIS]: *I have left my, I have, because I was being very disappointed...with the result*

...

[Interpreter]: *Because I was, because I was to say the truth I don't say lies I have keep the two tests in my pocket so nobody can see it.*

...

[Interpreter]: *For ten minutes.*

[Interviewer]: *What, why, why did you do that?*

...

[Interpreter]: *I was panicking, I was feeling insecure, I didn't expecting that results.*

...

[Interpreter]: *After that [Witness 10] arrive in the office.*

...

[Interpreter]: I told her that I have the rapid test in my pocket.

...

[Interpreter]: Take it, take it out, I take it off, out sorry.

...

[Interpreter]: After that [Witness 3] arrived in the office, see it.

...

[Interviewer]: Why did you, why did you put them in your pocket?

...

[Interpreter]: To be honest with you I was surprise, I was panicking, I have a feeling that I have never feeled before, it was like um, how I can say, like a sadness, I cannot believe that it was positive.'

In view of Mr Provistallis' admission in his police interview, as well as the consistent evidence from Witness 3 and Witness 10, the panel was satisfied that on the balance of probabilities, between 1 March 2021 and 2 March 2021, after taking two Lateral Flow Tests, Mr Provistallis concealed and/or attempted to conceal the positive results by putting the positive tests in his pocket. It therefore found charge 3c)i proved.

Charge 3c)ii

That you, a Registered Nurse, at the Holmesley Nursing Home:

3. *Between 1 March 2021- 2 March 2021, you;*
    c) *After taking 2 Lateral Flow Tests, you concealed and/or attempted to conceal the positive results by:*
        ii) not logging/recording the positive results in the test log

This charge is found proved.

In reaching this decision, the panel took into account Witness 3's police statement dated 19 April 2021, which stated:

'*Next to Res. A room is a shelf, on the shelf is a white folder that you log the LFT in. You log the serial number, and date. I got it to log Christos's first test in it. I checked that he hadn't logged it before, he hadn't. I don't think he would have logged them at all if [Witness 10] hadn't known. Christos then handed me his second test from his pocket, this test was positive too. He still wasn't wearing a mask. I asked him to put a mask on and he smiled, he wasn't taking it seriously at all. He didn't see an issue. I told Christos that we needed to ring management and get someone in to replace him as the morning medication round needed to be started soon.*'

The panel also noted Witness 3's witness statement dated 12 March 2022, which stated:

'*Next I checked to see if the serial numbers had been logged like the policy requires but they had not been. I logged them and I believe Christos was hiding the results and wouldn't have logged or told anyone about them if [Witness 10] hadn't seen them. He was not taking it seriously at all.*'

The panel considered Mr Provistallis' account in his police interview that Witness 3 had entered the details of his positive lateral flow tests in the test log. However, the panel preferred Witness 3's consistent evidence about this incident in which she stated that she only did this because Mr Provistallis had not done so.

The panel was therefore satisfied that on the balance of probabilities, between 1 March 2021 and 2 March 2021, after taking 2 Lateral Flow Tests, Mr Provistallis concealed and/or attempted to conceal the positive results by not logging/recording the positive results in the test log. It therefore found charge 3c)ii proved.

Charge 3c)iii

That you, a Registered Nurse, at the Holmesley Nursing Home:

3. *Between 1 March 2021- 2 March 2021, you;*

c) *After taking 2 Lateral Flow Tests, you concealed and/or attempted to conceal the positive results by:*

iii) *not disposing of the positive tests with your initials on, in a clinical waste bucket*

This charge is found proved.

In reaching this decision, the panel took into account Witness 4's police statement dated 20 April 2021, which stated:

> '*We had never had a positive LFT, and I had never seen one. There were loads of positives in the bin. I was looking for one without any initials, as that one would potentially be Christos PROVISTALIS. I had been through maybe ten positive tests. Christos PROVISTALIS hadn't logged his tests. I did find tests without initials. I asked [Witness 3] to go back through the list and find out which test belonged to who, we needed to know who had tested positive.*'

The panel also noted its findings at charges 3c)i and 3c)ii that Mr Provistallis put his two positive lateral flow tests in his pocket and did not record the positive results in the test log. It determined that by doing so and then not disposing of the positive tests with his initials on, in the clinical waste bucket, Mr Provistallis attempted to conceal the positive results. The panel also noted Mr Provistallis' admission in his police interview about the attempt to conceal the positive test results.

The panel was therefore satisfied that on the balance of probabilities, between 1 March 2021 and 2 March 2021, after taking two Lateral Flow Tests, Mr Provistallis concealed and/or attempted to conceal the positive results by not disposing of the positive tests with his initials on, in a clinical waste bucket. It therefore found charge 3c)iii proved.

Charge 4

That you, a Registered Nurse, at the Holmesley Nursing Home:

4. *Your conduct at all and/or any of Charge 3c was dishonest, in that you:*
   a) *Knew that you had tested positive for Covid in 2 Lateral Flow Tests*
   b) *Intended to create the misleading impression that you had not tested positive*

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 3c)i, 3c)ii and 3ciii.

The panel had regard to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 in which the Supreme Court, giving judgment, stated as follows:

> *'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.'*

The panel first considered Mr Provistallis' state of mind as to the facts, i.e. whether he knew that he had tested positive for COVID-19. The panel took into account the record of Mr Provistallis' interview at Exeter Police Station on 25 March 2021, and was satisfied that he knew he had tested positive because he was surprised, '*panicking*' and could not '*believe that it was positive*'. It was further satisfied from his account in his police interview

that in hiding the positive tests in his pocket, he intended to create the misleading impression that he had not tested positive.

The panel next considered whether, in the context of what he knew, Mr Provistallis' conduct was dishonest by the standards of ordinary decent people. The panel was satisfied that by the objective standards of ordinary decent people, Mr Provistallis was dishonest in his actions as set out in charges 3c)i, 3c)ii and 3c)iii.

The panel was mindful of the fact that Mr Provistallis denied dishonesty in his solicitor's letter dated 27 September 2023. It also took into account Mr Provistallis' previous good character and positive testimonials. However, it was satisfied that, on this occasion, he deliberately concealed his positive LFTs and that this conduct was dishonest.

The panel therefore determined that Mr Provistallis' conduct at charges 3c)i, 3c)ii, 3c)iii was dishonest in that he knew that he had tested positive for COVID-19 in two lateral flow tests, and intended to create the misleading impression that he had not tested positive.

Charge 5

That you, a Registered Nurse, at the Holmesley Nursing Home:

5. *Your conduct at any and/or all of charges 1 – 3 put residents and/or staff at risk of serious harm*

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 1, 2 and 3.

The panel considered that these matters took place in the middle of a COVID-19 pandemic and that Mr Provistallis worked in a nursing home with vulnerable residents who lived in close quarters with each other and were being cared for by shared staff. COVID-19 is a disease which, at the time, society was taking drastic measures to contain. The

panel was of the view that the risks of failing to ensure that proper infection control measures were followed at this time would have been obvious to a Registered Nurse.

In addition, the panel noted the guidance from Witness 2 dated 13 March 2020, of which Mr Provistallis would or should have been aware, which stated:

> '*The coronavirus is a serious condition. Thankfully amongst the healthy the chances of survival are very high, however the chances of survival amongst the elderly is worrying. It is estimated to be between 4-40 times more deadly than the flu. Should this coronavirus find its way into our care home the chances of a significant number of fatalities amongst the vulnerable adults we care for is high. For this reason we must do everything we possibly can to prevent the spread of the disease…'*

In all the circumstances, the panel was satisfied that Mr Provistallis' conduct at all of charges 1a, 1b, 1c, 1d, 2a, 2b, 2c, 2d, 2e, 3a, 3b, 3c)i, 3c)ii and 3c)iii put residents and/or staff at risk of serious harm.

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 Mr Provistallis' 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 ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has 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, Mr Provistallis' fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Mr Malik provided the panel with written submissions on misconduct and impairment. He invited the panel to take the view that the facts found proved amount to misconduct.

Mr Malik submitted that the concerns in this case are extremely serious and relate to Mr Provistallis' poor infection control during the COVID-19 pandemic. He highlighted the panel's findings on the facts, and identified the specific, relevant standards where Mr Provistallis' actions amounted to misconduct.

Mr Malik submitted that Mr Provistallis' failings related directly to his clinical practice, and placed residents and staff at risk of serious harm. He submitted that Mr Provistallis' dishonesty raised fundamental concerns about his trustworthiness as a registered professional because honesty and integrity are fundamental tenets of the profession, and the public expect nurses to be trustworthy. Mr Malik submitted that Mr Provistallis had breached his duty of candour.

Mr Malik submitted that Mr Provistallis' poor practice indicated a dangerous attitude to the safety of people receiving care.

Mr Malik referred to his written submissions in which he invited the panel to have regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code), and the extent of Mr Provistallis' breaches of the Code. In his submission, Mr Provistallis had breached parts 1.2, 8.2, 8.5, 10.1, 13.4, 19.1, 19.3, 19.4, 20.1, 20.2, 20.3 of the Code.

Mr Malik reminded the panel to bear in mind its overarching objective to protect the public and the wider public interest, which included the need to declare and maintain proper standards and maintain public confidence in the profession and the NMC as a regulatory body.

Submissions on impairment

Mr Malik 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Malik submitted that Mr Provistallis' actions put patients at unwarranted risk of harm by not following infection control procedures. He highlighted the panel's finding at charge 5, that Mr Provistallis' conduct at any and/or all of charges 1 – 3 put residents and/or staff at risk of serious harm. Mr Malik submitted that in the absence of full insight and remediation from Mr Provistallis, there remains a risk of repetition.

Mr Malik submitted that Mr Provistallis' actions brought the nursing profession into disrepute and he breached fundamental tenets of the nursing profession by failing to promote professionalism and trust when he acted in a dishonest manner. He submitted that there is a continuing risk to both public protection and the wider public interest due to Mr Provistallis' actions. Mr Malik submitted that Mr Provistallis' behaviour raised fundamental concerns about his attitude as a registered professional. He submitted that breaches of the Code involve breaching a fundamental tenet of the profession, and so the panel would be entitled to conclude that a finding of impairment is required in this case. Mr Malik submitted that a finding of impairment is required to mark the unacceptability of the

behaviour, emphasise the importance of the fundamental tenets breached and to reaffirm proper standards and behaviour.

Mr Malik highlighted the case of *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and submitted that the failings in this case were directly related to Mr Provistallis' clinical practice and indicate a deep-seated attitudinal problem. He submitted that they also related to dishonest conduct and the breach of the duty of candour, which are more difficult to remediate.

Mr Malik referred to the NMC guidance on '*serious concerns which are more difficult to put right*' which lists the following as concern that are so serious that it may be less easy for a nurse to put right the conduct, the problems in their practice, or the aspect of their attitude which led to the incidents happening:

- '*breaching the professional duty of candour to be open and honest when things go wrong, including covering up, falsifying records, obstructing, victimising or hindering a colleague or member of the public who wants to raise a concern, encouraging others not to tell the truth, or otherwise contributing to a culture which suppresses openness about the safety of care*'; and
- '*being directly responsible (such as through management of a service or setting) for exposing people receiving care to harm or neglect, especially where the evidence shows the nurse, midwife or nursing associate putting their own priorities, or those of the organisation they work for, before their professional duty to ensure the safety and dignity of people receiving care.*'

Mr Malik then referred to the NMC guidance on '*insight and strengthened practice*' and asked the panel to consider the extent to which Mr Provistallis has reflected on the events and demonstrated insight into what happened, together with steps taken to remediate the concerns. He submitted that Mr Provistallis had not submitted a reflective statement, but his previous representative provided written submissions dated September 2023.

Mr Malik submitted that the concerns in this case are not easily remediable, have not been remediated, and are therefore highly likely to be repeated should Mr Provistallis be permitted to practise as a nurse again. He submitted that the panel had no evidence that Mr Provistallis had addressed or taken steps to address any of the concerns or risks identified in this case.

Mr Malik submitted that a finding of impairment is necessary on public protection grounds as the misconduct in the case is serious and there remains a risk of repetition of the misconduct due to Mr Provistallis' limited insight and lack of remediation. He submitted that a finding of impairment should also be made on public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin), *CHRE v NMC and Grant*, and *Cohen v General Medical Council*.

Decision and reasons on misconduct

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

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 Mr Provistallis' actions did fall significantly short of the standards expected of a registered nurse, and that Mr Provistallis' actions amounted to a breach 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.

6 Always practise in line with the best available evidence

To achieve this, you must:

6.1 make sure that any information or advice given is evidence-based including information relating to using any health and care products or services.

8 Work co-operatively

To achieve this, you must:

8.2 maintain effective communication with colleagues.

8.5 work with colleagues to preserve the safety of those receiving care.

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:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event.

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.

19.2 take account of current evidence, knowledge and developments in reducing mistakes and the effect of them and the impact of human factors and system failures...

19.3 keep to and promote recommended practice in relation to controlling and preventing infection.

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public.

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...

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people.

20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way.

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.'

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

The panel considered each of the charges and their context to determine whether, individually, they amounted to misconduct.

Charge 1

The panel considered that Mr Provistallis' failure to follow basic infection control procedures on numerous occasions was serious, particularly in circumstances where he was working in a care home with vulnerable residents during the COVID-19 pandemic. It considered that as a registered nurse, Mr Provistallis should have known and adhered to this fundamental aspect of practice.

The panel noted Mr Provistallis' acceptance that he did not wear a mask in communal areas of the Home as [PRIVATE]. The panel considered that there was no justification as

to why Mr Provistallis reported for duty and worked whilst having symptoms and did not wear gloves or wash his hands between attending to different residents. The panel determined that Mr Provistallis' actions at charge 1 demonstrated an overall disregard for basic infection control procedures and a serious departure from the standards and behaviour expected of him as a registered nurse. It therefore concluded that Mr Provistallis' conduct at charge 1 was sufficiently serious enough to amount to misconduct.

Charge 2

The panel noted that Mr Provistallis' conduct at charge 2 related to poor infection control during the COVID-19 pandemic whilst he was administering medication to a resident. The panel took into account Resident A's vulnerability and the fact that Mr Provistallis was unwell with Covid-like symptoms at the time, did not wash his hands before giving Resident A the medication and put his hands close to Resident A's mouth. The panel determined that this was unacceptable and placed Resident A and Witness 3, who was in the room at the time, at risk of harm. The panel therefore found that Mr Provistallis' actions at charge 2 were sufficiently serious as to amount to misconduct.

Charge 3

The panel noted its findings in respect of Mr Provistallis' conduct at charge 3. It considered that Mr Provistallis carried out a series of actions that demonstrated an attitudinal concern surrounding his beliefs and ideologies about COVID-19. The panel took into account that Mr Provistallis was aware of the requirement for testing at the start of his shift, but he did not do so. Mr Provistallis then told Colleague A that his positive result was not real as COVID-19 was not real and subsequently attempted to conceal his positive results. The panel considered Mr Provistallis' explanation that he was a COVID-19 sceptic and was '*surprised*' and '*panicking*' when he saw the positive result. It was of the view that despite this, Mr Provistallis was aware of his duty under the specific rules at the time, and so his explanation did not provide sufficient justification for his actions.

The panel determined that by acting as he did at charge 3, Mr Provistallis inappropriately prioritised his own needs and beliefs above the safety of staff and vulnerable residents at the Home. It found that by doing so, Mr Provistallis failed to uphold the proper standards expected of him as a registered nurse. The panel was of the view that Mr Provistallis' actions would be regarded as deplorable by fellow practitioners. The panel determined that Mr Provistallis' actions fell seriously short of the conduct and standards expected of a registered nurse, and therefore amounted to misconduct

Charge 4

The panel noted its finding that Mr Provistallis acted dishonestly in that he knew that he had tested positive for COVID-19 on two LFTs and intended to create the misleading impression that he had not tested positive. It considered that by doing so, Mr Provistallis acted irresponsibly and placed staff and vulnerable residents at risk of harm as he could have exposed them to COVID-19.

The panel considered that Mr Provistallis had a duty as a registered nurse to be open and honest, and act with integrity, but he did not do so. It was of the view that Mr Provistallis' dishonesty in respect of charge 3c brought his integrity into question, would be regarded as deplorable by fellow practitioners and the public, and fell seriously short of the conduct and standards expected of a registered nurse. The panel was therefore satisfied that Mr Provistallis' dishonesty amounted to misconduct.

Charge 5

The panel determined that by putting residents and staff at risk of serious harm through his conduct at charges 1 to 3, Mr Provistallis demonstrated a blatant disregard for policies, procedures, the Code, and his professional duty to ensure the safety of the residents and staff members at the Home. The panel found that this fell seriously short of the conduct and standards expected of a registered nurse and therefore amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Provistallis' fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

> *'The question that will help decide whether a professional's fitness to practise is impaired is:*
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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 be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ 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 determined that limbs a), b), c) and d) are engaged in this case. The panel found that residents and staff were put at risk of harm as a result of Mr Provistallis’ misconduct. Mr Provistallis’ misconduct breached the fundamental tenets of the nursing profession, including promoting professionalism and trust and acting honestly, and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel had regard to the case of *Cohen v General Medical Council* and considered the following factors:

- whether the misconduct is capable of being addressed;
- whether it has been addressed; and
- whether the misconduct is highly unlikely to be repeated.

The panel was satisfied that the misconduct relating to Mr Provistallis' poor infection control at charges 1, 2 and 3 is capable of being addressed. It considered, however, that his dishonesty and breach of the duty of candour raised attitudinal concerns which are more difficult to put right.

In relation to whether Mr Provistallis' misconduct has been addressed, the panel noted:

- Two testimonials dated 14 September 2023 and 15 September 2023,
- 26 e-Learning training certificates dated between 27 July 2023 and 13 August 2023;
- A letter from Mr Provistallis' solicitor to the NMC Case Examiners dated 27 September 2023, setting out his response to the regulatory concerns and his remorse and reflection.
- Two emails from Mr Provistallis dated 9 April 2024 and 9 May 2024 which stated:

  '*I don't want to continue to be a nurse.*
  I want to delete my name from NMC'; and

  '*Please*
  Delete my name from NMC Forever'.

The panel did not have the opportunity to hear from Mr Provistallis regarding his insight and any strengthened practice following his last correspondence with the NMC. It had no recent evidence of any reflection from Mr Provistallis into the impact of his misconduct, his understanding of why what he did was wrong, how his actions put patients at risk of harm and how they impacted negatively on the reputation of the nursing profession. The panel

also had no evidence before it that Mr Provistallis would manage a similar situation differently in the future.

As such, the panel could not conclude that it is highly unlikely that Mr Provistallis' misconduct would be repeated in the future. It therefore found that there is a 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 to mark the unacceptability of Mr Provistallis' misconduct and to uphold proper professional standards. The panel considered that a well-informed member of the public and fellow professionals would be concerned if a finding of impairment were not made in a case where Mr Provistallis had demonstrated poor infection control, placed staff and vulnerable residents at risk of serious harm, breached his professional duty of candour, and had not provided insight or evidence of strengthened practice.

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 finds Mr Provistallis' fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was not satisfied that Mr Provistallis can practise kindly, safely and professionally and therefore determined that Mr Provistallis' fitness to practise is currently impaired.

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 Provistallis off the register. The effect of this order is that the NMC register will show that Mr Provistallis 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.

Submissions on sanction

In the Notice of Hearing, dated 8 July 2024, the NMC had advised Mr Provistallis that it would seek the imposition of a striking-off order if the panel found Mr Provistallis' fitness to practise currently impaired.

Mr Malik submitted that a striking-off order remains the appropriate and proportionate sanction. He submitted that the dishonesty concerns raised are directly related to Mr Provistallis' clinical practice, and that he has demonstrated limited remediation and insight.

Mr Malik submitted that the misconduct is too serious in this case for the panel to take no further action or to impose a caution order. He submitted that dishonesty is a serious matter and is not at the lower end of the spectrum when considering fitness to practise.

Mr Malik submitted that a conditions of practice order is not an appropriate or proportionate sanction in this case. He submitted that Mr Provistallis put Resident A and Witness 3 at unwarranted risk of harm. He submitted that Mr Provistallis put his own ideals and beliefs about COVID-19 above the interests of the vulnerable residents and staff at the Home. He submitted that Mr Provistallis had been dishonest by misleading his colleagues that he had not tested positive for COVID-19. He submitted that Mr Provistallis has shown an absence of insight, remediation and in any event, these concerns are

difficult to remediate. He submitted that there is a risk of harm and repetition and therefore there are no workable conditions that would protect the public and satisfy the public interest.

Mr Malik submitted that a suspension order is not an appropriate sanction because Mr Provistallis' misconduct was fundamentally incompatible with remaining on the NMC register. He submitted that this was not a single isolated event, that there is evidence of deep-seated attitudinal issues, no evidence of insight and a risk of repetition. He therefore submitted that a suspension order would not be an appropriate or proportionate sanction.

Mr Malik submitted that a striking-off order would be the only sanction available that would mark the nature and seriousness of the misconduct, protect the public and satisfy the public interest in this case. He submitted that Mr Provistallis' misconduct was a serious departure from the standards expected of a nurse, and it raises serious concerns about his professionalism and integrity. He submitted that a striking-off order is the only sanction that would maintain the public confidence in the profession and in the NMC as a regulator given the nature and seriousness of these concerns.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Mr Provistallis' 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:

- Directly putting vulnerable residents and those receiving care at risk of harm
- Put his own beliefs relating to COVID-19 above patient safety
- Blatant disregard of the COVID-19 rules and guidance within the Home during an unprecedented pandemic
- Dishonestly and deliberately breached the duty of candour, especially as it had the potential to put those receiving care at risk of harm

The panel determined that there are no mitigating factors. It noted that there had been some partial admissions, and some testimonials provided, however the panel concluded that this did not mitigate the seriousness of the misconduct by Mr Provistallis.

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 Mr Provistallis' 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 Provistallis' 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.

The panel next considered whether placing conditions of practice on Mr Provistallis' registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. The panel noted that Mr Provistallis had deliberately made the choice to not comply with the COVID-19 guidance within the Home. It was not

satisfied that these attitudinal concerns could be corrected with conditions, or that the public would be sufficiently protected. It took the view that there are no workable conditions that could be imposed as Mr Provistallis is no longer in the country, and he has expressed that he no longer wishes to practise as a nurse. Furthermore, the panel concluded that the placing of conditions on Mr Provistallis' registration would not adequately address the seriousness of this case and would not mark the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel concluded that this was not a single instance of misconduct, but a pattern of behaviour showing complete disregard for infection control procedures and measures designed to protect vulnerable residents. It bore in mind that Mr Provistallis was told repeatedly that his behaviour was unacceptable, and that he still failed to observe proper infection prevention and control procedures. The panel determined that Mr Provistallis placed other people's safety at significant risk of harm and demonstrated deep-seated attitudinal issues that are difficult to remediate. Further, it was not satisfied that Mr Provistallis had insight into the seriousness of his misconduct and it was not satisfied that he did not pose a significant risk of repeating his behaviour.

The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at 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?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

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 Provistallis' actions is fundamentally incompatible with Mr Provistallis remaining on the register.

Mr Provistallis' actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Provistallis' 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.

The panel also concluded that a member of the public would be shocked if Mr Provistallis was to remain on the NMC register. The panel reminded itself that a member of the public had raised concerns with the Home Manager about the beliefs Mr Provistallis was expressing in relation to COVID-19 not being real, given that he was working as a nurse. It considered that public confidence in the profession could only be maintained by his removal from the NMC register.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Provistallis' actions in bringing the

profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered 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 Provistallis 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 Provistallis' own interests until the striking-off 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 Malik. He invited the panel to make an interim suspension order for a period of 18 months to cover any appeal period until the substantive striking-off order takes effect. He submitted that such an order is necessary for the protection of the public and is otherwise in the public interest.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure that Mr Provistallis cannot practise unrestricted before the substantive striking-off order takes effect, not to impose an interim suspension order would be inconsistent with the panel's earlier finding. 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 suspension order will be replaced by the substantive striking off order 28 days after Mr Provistallis is sent the decision of this hearing in writing.

That concludes this determination.