

**Dates:** 11/06/2020 & 15/06/2020

**Medical Practitioner's name:** Dr Paul WILKINSON  
**GMC reference number:** 7080665  
**Primary medical qualification:** MB ChB 2010 University of Liverpool

<b>Type of case</b>	<b>Outcome on impairment</b>
XXX Review - Conviction	XXX Not Impaired

**Summary of outcome**  
Conditions, 24 months  
Review hearing directed

**Tribunal:**

Legally Qualified Chair	Mr Tim Bradbury
Lay Tribunal Member:	Mr Andrew Waite
Medical Tribunal Member:	Dr John Moriarty
Tribunal Clerk:	Ms Jeanette Close

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Austin Welch, Counsel, instructed by Stephenson Solicitors
GMC Representative:	Mr Ryan Donoghue, Counsel

## **Record of Determinations – Medical Practitioners Tribunal**

### **Attendance of Press / Public**

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

### **Overarching Objective**

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

### **Determination on Impairment - 11/06/2020**

1. The Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Wilkinson's fitness to practise is impaired by reason of conviction XXX.

### **The Outcome of Applications Made during the Impairment Stage**

#### **Rule 41**

2. The Tribunal granted Mr Welch's application, made pursuant to Rule 41 XXX of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to hold the hearing in public. The Tribunal's full decision on the application is included at Annex A.

#### **Background**

3. Dr Wilkinson graduated in July 2010 from the University of Liverpool School of Medical Education with a Bachelor of Medicine, Bachelor of Surgery MBChB (Hons) degree. Prior to the events which are the subject of this hearing Dr Wilkinson worked at Aintree Trusts NHS Foundation Trust (the Trust) at Aintree Hospital.

4. The Tribunal noted that Dr Wilkinson's Fitness to Practise hearing commenced on 9 April 2019 and concluded on 31 May 2019, having adjourned part-heard due to insufficient time to conclude the hearing. For the purpose of this review hearing and for ease of reference, this Tribunal will refer to the previous Tribunal as the '2019 Tribunal'.

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### **Impairment by reason of conviction**

5. The 2019 Tribunal determined that Dr Wilkinson’s fitness to practice was impaired by reason of his conviction XXX. The convictions included burglary and theft, contrary to section 9 (1) (b) of the Theft Act 1968, burglary, contrary to section 9 (1) (a) of the Theft Act 1968 and theft, contrary to Section 1 (1) and (7) of the Theft Act 1968.

6. XXX

7. The 2019 Tribunal found that both during and after Dr Wilkinson’s employment with the Trust he had committed numerous offences of theft and burglary. It noted that Dr Wilkinson had retained his Trust security pass after his employment with the Trust had ended on 2 August 2016 and that he had used it to continue to gain access to the Trust’s premises to steal XXX. It further noted that Dr Wilkinson had worn hospital scrubs whilst accessing the Trust’s premises in order to deflect attention from himself and to avoid arousing suspicion. The 2019 Tribunal found that Dr Wilkinson continued these actions over a period of several months until his arrest in April 2017.

8. Although the 2019 Tribunal accepted that there was no evidence of direct harm to patients, it found that Dr Wilkinson had put patients at risk by not declaring XXX, which had ultimately led to XXX and his offending.

9. The 2019 Tribunal noted that Dr Wilkinson was convicted, following pleas of guilty of two counts of burglary and one count of theft and was sentenced by the Liverpool Crown Court to 8 months imprisonment in September 2017.

10. The 2019 Tribunal determined that Dr Wilkinson’s actions were “dishonest and calculated”, it found that Dr Wilkinson had brought the medical profession into disrepute and that he had breached fundamental tenets of the medical profession.

11. The 2019 Tribunal accepted that Dr Wilkinson had admitted all of the allegations at the outset of the hearing and that there was no evidence before it to suggest that Dr Wilkinson had repeated his dishonest behaviour since his arrest and release from prison. The 2019 Tribunal had regard to the extensive remediation that Dr Wilkinson had undertaken, together with his statement of reflection and insight, where he expressed remorse and reflected on his actions and how they had led to his conviction.

12. XXX. It was mindful that it was XXX that had acted as a trigger for his dishonest actions and XXX in the first instance.

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13. The 2019 Tribunal carefully considered the public interest in the case in particular the need to uphold proper professional standards and to maintain public confidence in the medical profession. It found that Dr Wilkinson had demonstrated a 'severe lack of judgement and integrity'. In all the circumstances the 2019 Tribunal determined that a finding of impairment was required in order to protect the public interest, promote and maintain public confidence in the profession and maintain proper professional standards and conduct for the members of the profession. It therefore found Dr Wilkinson's fitness to practise was impaired by reason of his conviction.

**XXX**

14. XXX

15. XXX

16. XXX

17. XXX

18. XXX

19. XXX

20. The 2019 Tribunal determined to suspend Dr Wilkinson's registration for a period of twelve months, which it considered was necessary to allow Dr Wilkinson sufficient time to XXX and develop insight XXX.

21. The 2019 Tribunal concluded that imposing a period of suspension of twelve months would send a clear message to Dr Wilkinson, the profession, and the wider public that Dr Wilkinson's actions could have resulted in erasure.

22. The 2019 Tribunal directed a review of Dr Wilkinson's case and considered that a reviewing Tribunal may be assisted if Dr Wilkinson provided the following:

- A statement of reflection – to include reflection on what to do if difficulties arise again, and how Dr Wilkinson will respond differently in the future. He should also set out a realistic plan for how he is going to return to practice;
- Meaningful Continuing Professional Development to demonstrate that he has maintained his medical skills and knowledge;
- A clear plan in relation to how he is going to continue his engagement with any relevant support on a return to work;
- XXX;
- Dr Wilkinson should also provide any other information that he considers will

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support his case in showing that his fitness to practise is no longer impaired.

### Today's Review Hearing

23. The Tribunal has considered, under Rule 22(1)(f) of the Rules, whether Dr Wilkinson's fitness to practise remains impaired by reason of his conviction XXX. It considered the submissions made by Mr Ryan Donoghue, Counsel, on behalf of the GMC and Mr Austin Welch, Counsel, on behalf of Dr Wilkinson.

### Evidence

24. The Tribunal took account of all the documentary evidence adduced during the course of this review hearing, both oral and documentary.

On behalf of the GMC:

- Record of Determination of the MPT hearing, dated 9-15 April & 31 May 2019;
- Email correspondence between Dr Wilkinson and the GMC, various dates;
- XXX
- XXX
- XXX.

25. In addition, the Tribunal received a number of documents in support of Dr Wilkinson, which included but was not limited to:

- A reflective statement from Dr Wilkinson, dated 13 May 2020;
- Numerous references, testimonials and reports on behalf of Dr Wilkinson, various dates;
- Evidence of Dr Wilkinson's continuing CPD, including attendance certificates from numerous courses;
- XXX;
- An addendum bundle.

26. The Tribunal also heard evidence from Dr Wilkinson.

### Submissions on Impairment

27. Mr Donoghue, on behalf of the GMC referred to the relevant case law, in particular he drew the Tribunal's attention to the case of *Abraheem v GMC [2008] EWHC 183 (Admin)* establishing that there is in practical terms a persuasive burden on the doctor to demonstrate that they are now fit to practise. Mr Donoghue emphasised that the burden is on Dr Wilkinson to demonstrate that he has met the concerns identified by the previous Tribunals.

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28. In relation to Dr Wilkinson’s conviction and based on the information provided by Dr Wilkinson and the evidence the Tribunal heard today, Mr Donoghue submitted that his fitness to practise is no longer impaired on that basis. Whilst the GMC accept that the findings of the previous Tribunal were of serious repeated dishonesty which lead to his convictions, when it comes to the position today, that alone does not justify a continued finding of impairment. Mr Donoghue submitted that Dr Wilkinson has reflected on his conduct and remediated.

29. XXX

30. XXX

31. XXX

32. XXX

33. On behalf of Dr Wilkinson, Mr Welch submitted that Dr Wilkinson was no longer impaired by reason of a conviction. He stated that throughout the criminal trial Dr Wilkinson had always accept the seriousness of his conduct and never sought to challenge it. He stated that Dr Wilkinson had made full admissions to the Police immediately at his arrest and had even admitted more offences.

34. Mr Welch stated that Dr Wilkinson fully accepted that he had brought the medical profession into disrepute and had breached the confidence and trust of members of the public and former colleagues at the Trust.

35. Mr Welch submitted that Dr Wilkinson had engaged in a significant amount of work and reflection since the 2019 Tribunal including continuous work on his personal development and maintaining and updating his clinical knowledge and skills. He stated that Dr Wilkinson had undertaken a substantial amount of work XXX. Mr Welch reminded the Tribunal that Dr Wilkinson also continues to XXX and is able to reflect on his own misconduct XXX.

36. Mr Welch stated that XXX. He therefore invited the Tribunal to find Dr Wilkinson’s fitness to practice no longer impaired by reason of a conviction.

37. XXX

38. XXX

### **The Relevant Legal Principles**

39. The Tribunal reminded itself that at a review hearing, there is a persuasive burden upon the doctor to show how his conduct has been remediated, in order to demonstrate that he is no longer impaired. The decision as to whether

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Dr Wilkinson's fitness to practise remains impaired is a matter for this Tribunal alone, exercising its own judgment. In so doing, the Tribunal has taken into account whether the matters which gave rise to the concerns in this case are remediable and have been remediated. The Tribunal has also taken into account the submissions made by both counsel in relation to impairment, and in relation to the additional documentation.

40. Throughout its deliberations, the Tribunal has borne in mind the statutory over-arching objective, which includes to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the medical profession.

### **The Tribunal's Determination on Impairment**

41. The Tribunal is aware that the 2019 Tribunal imposed a period of suspension of 12 months on Dr Wilkinson's registration. The 2019 Tribunal considered that this period XXX; would allow Dr Wilkinson sufficient time to demonstrate that he has kept his medical skills and knowledge up to date; develop a plan as to how he is going to continue his engagement with relevant support on a return to work; XXX.

### **Impaired by reason of a conviction**

42. The Tribunal first considered the relevant legal principle as set out in the case of *Abraheem*. It accepted that there was a persuasive burden on Dr Wilkinson to demonstrate that he had addressed the concerns of the previous Tribunal and had demonstrated insight.

43. The Tribunal recognised that whilst serving his 12 months suspension, Dr Wilkinson had used the time constructively to further develop his insight and to remediate his misconduct, in so far as it is possible to remediate conduct involving dishonesty.

44. The Tribunal accepted the submissions made by Mr Welch that Dr Wilkinson was fundamentally an honest person, having neither before nor since his conviction engaged in any dishonest activity. The Tribunal noted that although sustained over a relatively prolonged period, Dr Wilkinson's dishonesty occurred in a particular context and was inextricably linked to XXX. It reminded itself that since Dr Wilkinson's conviction, there has been no repetition or suggestion of any repetition of such conduct.

45. With regards to the risk of repetition the Tribunal determined that given the progress Dr Wilkinson had made in rehabilitation, the risk of repetition of his previous dishonest conduct is low.

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46. The Tribunal considered that the public interest in upholding the reputation of the profession and maintaining proper professional standards of the profession had been served by the period of suspension.

47. The Tribunal therefore determined that Dr Wilkinson's fitness to practise was no longer impaired by reason of conviction.

XXX

**Confirmed**  
**Date** 15 June 2020

Mr Tim Bradbury, Chair

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**ANNEX A – 11/06/2020**

### **Application for the hearing to be heard in public**

1. At the outset of the hearing, Mr Welch, on behalf of Dr Wilkinson made an application pursuant to Rule 41 XXX of the General Medical Council (Fitness to Practise Rules) 2004 as amended (the Rules') to hold the hearing in public.
2. Mr Welch stated that aspects of XXX are already a matter of public record and that Dr Wilkinson is content for these matters to be heard in public session.
3. Mr Donoghue, Counsel, on behalf of the GMC, did not oppose the application.
4. The Tribunal considered the application from Mr Welch for these proceedings to be held in public in their entirety at Dr Wilkinson's request. It reminded itself that XXX.
5. The Tribunal noted that due to the current pandemic and in accordance with new regulations, members of the public do not have access to virtual hearings. It also reminded itself that the contents of any determination it produced would be subject to the MPTS public disclosure policy, where XXX are routinely redacted from published determinations.
6. The Tribunal noted that these proceedings were being recorded and that if anyone wanted a copy of the transcript of this hearing, then they could obtain one XXX.
7. The Tribunal considered that if, in due course, Dr Wilkinson wished the determination to be published by MPTS then he would need to take that up with the MPTS as this was not something that this Tribunal can make direction on.
8. Nevertheless, the Tribunal determined that it would be appropriate for these proceedings to be held in public given the link between Dr Wilkinson's conviction and XXX.