

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

**Substantive Hearing  
Monday, 24 June 2024 – Monday, 8 July 2024**

Virtual Hearing

**Name of Registrant:** Keith John Laing

**NMC PIN** 0311598S

**Part(s) of the register:** Sub part 1, RNLD: Learning disabilities nurse, level 1 (29 May 2007)

**Relevant Location:** Edinburgh

**Type of case:** Misconduct/Health

**Panel members:** Tracy Stephenson (Chair, Lay member)  
Janet Williams (Registrant member)  
Carson Black (Lay member)

**Legal Assessor:** Paul Housego (24, 25 and 28 June 2024)  
Lizzy Acker (26 and 27 June 2024)  
Mark Ruffell (1 July 2024 – 10 July 2024)

**Hearings Coordinator:** Audrey Chikosha

**Nursing and Midwifery Council:** Represented by Matt Ward, Case Presenter

**Mr Laing:** Not Present and not represented at the hearing.

**Facts proved:** Charges 1, 2, 5a.1, 5a.2, 5a.3, 5a.4, 5a.6, 5a.7, 5b, 5c, 5e.1, 5e.2, 5e.3, 5e.4, 5e.5, 5e.6, 6, 7, 8, 9

**Facts not proved:** Charges 3, 4, 5a.5,

**Fitness to practise:** Impaired

**Sanction:** Strike-Off

**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 Laing was not in attendance and that the Notice of Hearing letter had been sent to Mr Laing 's registered email address by secure email on 21 May 2024.

Mr Ward, 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 information about Mr Laing's 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 Laing 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 Laing**

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

Mr Ward submitted that there had been no engagement at all by Mr Laing 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.

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 Laing. In reaching this decision, the panel has considered the submissions of Mr Ward 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 Laing;
- Mr Laing emailed the NMC on 20 November 2023 stating that he did not wish to receive anything in relation to this case. He has not corresponded with the NMC since then;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- One witness has attended today to give live evidence, seven others are due to attend;
- 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 between 2016 and 2019 so 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 Laing in proceeding in his absence. The evidence upon which the NMC relies has been sent to him to his registered email address. 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, he did provide responses in his self-referral submitted to the NMC on 10 June 2019. Therefore, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Laing's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

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

*An application under Rule 19 of the Nursing and Midwifery Fitness to Practise Rules Order of Council 2004 to hear all matters in private was accepted.*