



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO/1270/2021

In the matter of an application for judicial review

THE QUEEN

on the application of

**THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND
SOCIAL CARE**

Appellant

-and-

(1) THE NURSING AND MIDWIFERY COUNCIL

-and-

(2) ALIN-STEFAN POPESCU

Respondents

UPON consideration of the Consent Order dated 10 August 2021 (see Order attached)

ORDER by **Ms Margaret Obi** (sitting as a Deputy High Court Judge)

1. The appeal is allowed.
2. The decision of the First Respondent's Fitness to Practise Committee in relation to sanction is quashed.
3. The Second Respondent's case is remitted to a differently constituted panel of the Fitness to Practise Committee to re-determine sanction (in accordance with the matters set out in Schedule 1 of the attached Order) and any additional evidence upon which the First and/or Second Respondents wish to rely, subject to that evidence being admissible in the usual way.
4. The First Respondent shall pay the Appellant's costs of the appeal, subject to detailed assessment on the standard basis in default of agreement.

Signed: **Margaret Obi**

The date of service of this order is calculated from the date in the section below

For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]
or the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: 19/08/2021

Solicitors:
Ref No.

Schedule 1

The Appellant appealed against the decision on the grounds that the decision was not sufficient to protect the public for the following reasons:

1. The Fitness to Practise Committee erred in holding that the Registrant's dishonesty was at the lower level and/or failing to provide any reasons for its decision in this regard.
2. The Fitness to Practise Committee erred in failing to have regard to relevant parts of the NMC's sanctions guidance and/or departing from that guidance without giving any (or any adequate) reasons.
3. The Fitness to Practise Committee failed to have any, or any adequate, regard to the Registrant's on-going dishonesty and lack of candour.
4. The Fitness to Practise Committee erred in finding that the Registrant's attitudinal failings were not deep-seated and/or in failing to provide any reasons for its finding in this regard.
5. Conditions were manifestly inappropriate to address the identified impairment

When considering the appropriate sanction for the Second Respondent on remittal, the Fitness to Practise Committee shall do so on the basis that the dishonesty found proved:

- a. occurred in a professional context and put vulnerable children at risk of serious harm.
- b. undermined the system of training and qualification which is fundamental to ensuring patient safety and maintaining public confidence.
- c. was compounded by further lies and evasion when the Second Respondent was confronted about his dishonesty.
- d. was done for personal gain in that:
 - i. it made the Second Respondent more employable as a bank nurse;
 - ii. it was done expressly to secure an advantage when applying for a permanent role.

The Committee shall further consider whether the Second Respondent's response when confronted about his wrongdoing is an aggravating feature of this case.

Without limiting in any way the normal exercise of the Committee's powers, the panel considering the case shall specifically consider the Appellant's Grounds of Appeal and the sections of the First Respondent's sanctions guidance referred to therein.

