

IN THE HIGH COURT OF JUSTICE

ADMINISTRATIVE COURT, QUEEN'S BENCH DIVISION

BETWEEN

PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

and

(1) NURSING AND MIDWIFERY COUNCIL

(2) BEVERLEY JEAN WISDOM

Respondents



CONSENT ORDER

UPON the parties having agreed to the terms of this Order; in particular that it is just and convenient for the Court to make the Order set out below

AND UPON neither party being either a child or protected party and the appeal not being an appeal from a decision of the Court of Protection

AND UPON the Second Respondent being, at the material time, a nurse on the register established and maintained by the First Respondent under Article 5 of the Nursing and Midwifery Order 2001 ('the register')

AND UPON a panel of the Fitness to Practise Committee of the First Respondent having found on 30 March 2017 that the fitness to practise of the Second Respondent was impaired by reason of misconduct and having decided to impose a conditions of practice order ('the conditions of practice') on the Second Respondent

AND UPON a panel of the Fitness to Practise Committee of the First Respondent reviewing the conditions of practice at a hearing on 29 September 2020 and deciding that the Second Respondent's fitness to practise was no longer impaired and that the conditions of practice should lapse on their expiry ('the decision')

AND UPON the conditions of practice lapsing on their expiry at the end of 2 November 2020 together with the Second Respondent's entry on the register

AND UPON the Appellant having lodged an appeal on 24 November 2020 against the decision pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002

AND UPON the First Respondent and the Second Respondent conceding on the grounds of the appeal set out in Schedule 1 that the decision was not sufficient for the protection of the public within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002

AND UPON the Second Respondent undertaking not to seek readmission to the register

BY CONSENT

IT IS ORDERED THAT:

PURSUANT TO SECTION 29 OF THE NATIONAL HEALTH SERVICE REFORM AND HEALTH CARE PROFESSIONS ACT 2002 AND SECTION 37 OF THE SENIOR COURTS ACT 1981:

1. The appeal be allowed and the decision that the Second Respondent's fitness to practise is no longer impaired be quashed.
2. The decision be substituted with a decision that the Second Respondent's fitness to practise is impaired.
3. Without limiting in any way the exercise of the powers of the First Respondent's Registrar, in the event that the Second Respondent in the future seeks readmission to the register, the First Respondent to ensure that any application for readmission made by the Second Respondent is placed before the Registrar with a copy of this Order and the grounds of appeal set out in Schedule 1 to be considered by the Registrar before deciding whether to admit the Second Respondent to the register.
4. The First Respondent shall pay the Appellant's reasonable costs of this appeal to be assessed if not agreed.
5. There be no other order as to costs.

We consent to an order on the terms above.

Dated this 31 day of December 2020

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The First Respondent

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Chris Smith

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Keith Lomax

Schedule 1

1. The Appellant appealed against the decision on the grounds that the decision was not sufficient to protect the public.
2. The seven grounds of appeal were that:
 - i. The Panel erred in failing to consider to give any, or any adequate weight to the period of time since the Registrant had last been in practice
 - ii. The Panel erred in the weight that it gave to the completion of the Return to Practice Course
 - iii. The Panel failed to have regard to the NMC's Guidance on Review Hearings, and as such, its decision-making process was flawed
 - iv. The Panel misdirected itself in relation to the difficulties the Registrant had had in finding employment, in circumstances where conditions of practice had been imposed for public protection
 - v. The Panel misdirected itself when finding that the Registrant had done "all that [she could] to remediate the concerns of the previous panel."
 - vi. The finding that the Registrant's fitness to practise was not impaired was irrational and wrong
 - vii. The Panel failed to give sufficient reasons as to how all the concerns raised in the original finding of impairment by reason of misconduct had been sufficiently addressed.