

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT

BETWEEN:

PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

Appellant

and



(1) HEALTH AND CARE PROFESSIONS COUNCIL  
(2) AMNISH AGGARWAL

Respondents

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CONSENT ORDER

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UPON the parties having agreed these terms and the statement of reasons as set out in the Schedule

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

BY CONSENT

IT IS ORDERED THAT:

- (1) The appeal be allowed and the decision of the First Respondent's Conduct and Competence Committee (the **CCC**) on 14 January 2020 that the Second Respondent was not guilty of misconduct be quashed.
- (2) The matter be remitted to a freshly constituted panel of the CCC for redetermination of the facts and decision on misconduct on the basis of a revised allegation in accordance with the contents of the Schedule.
- (3) In formulating the revised allegation, the First Respondent shall include, in substance, all of the particulars identified by the Appellant in Grounds 1-4 of the Notice of Appeal provided that, having regard to the available evidence in respect of each of those particulars, the First

Respondent is satisfied that there is a realistic prospect that it will be able to establish at the hearing that the Second Respondent's fitness to practise is impaired.

- (4) The First Respondent shall pay the Appellant's reasonable costs of the appeal, to be subject to detailed assessment if not agreed.

We consent to an order on the above terms.

Dated this 16<sup>th</sup> day of October 2020

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Ref: OCP/RJL/096763.0568

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**Solicitors for the First Respondent**

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**Second Respondent in Person**

## SCHEDULE

- (1) The Second Respondent is a registered Physiotherapist
- (2) In a decision on 14 January 2020 in fitness to practise proceedings FTP58565, the CCC found that the Second Respondent was not guilty of misconduct (the **Decision**).
- (3) The Appellant appealed the Decision on the following grounds:
  - Ground 1 – the allegation did not sufficiently reflect the extent and gravity of the Second Respondent’s misconduct as an expert witness.*
  - Ground 2 – the Panel erred in its assessment of the seriousness of the misconduct in that:*
    - a) *it did not address the seriousness of its findings in the context of the Second Respondent acting as an expert witness with duties to the court to be honest and to act with reasonable care and skill in producing his reports;*
    - b) *it erroneously concluded that the impact of the misconduct was ‘minimal’.*
  - Ground 3 – the allegation was too narrowly drafted such that there was a serious procedural irregularity.*
  - Ground 4 – the Panel failed to address the insufficiency of the allegation by failing to intervene.*
- (4) The First Respondent accepts that the Decision was not sufficient for the protection of the public, within the meaning of s.29(4) of the National Health Service Reform and Health Care Professions Act 2002.
- (5) The First Respondent accepts that the Decision should be quashed and the case remitted to a freshly constituted panel of the CCC for redetermination on the basis of a revised allegation, to be formulated by the First Respondent having taken into account the matters identified by the Appellant at paragraphs 18-23 and 27 of the Grounds of Appeal.