



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

Claim No.: CO/2257/2022

In the matter of an appeal pursuant to section 29 of the National Health Service Reform and Health Care Professions Act 2002

Before Her Honour Judge Claire Jackson sitting as a Judge of the High Court

BETWEEN:

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

Appellant

-and-

(1) SOCIAL WORK ENGLAND

(2) CHARMAINE MORGAN

Respondents

ORDER

UPON the Appellant's appeal under s29 National Health Service Reform and Health Professions Act 2002;

AND UPON the Appellant and the First Respondent having agreed these terms and the Statement of Reasons as set out in the Schedule to this Order;

AND UPON the Appellant and the First Respondent agreeing that in light of this Order, the interim suspension order imposed by the panel of adjudicators should remain in force;

AND UPON none of the parties 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 not responding to the appeal or to the requests of the Appellant to confirm her position regarding this Order

AND UPON the Second Respondent not having therefore consented to an Order in these terms or to the Statement of Reasons

AND UPON the Court therefore considering the appeal on paper of its own motion and determining that permission to appeal should be granted, if required, and the appeal granted and that it was just and proportionate to do so on paper

IT IS HEREBY ORDERED THAT: —

1. Permission to appeal is granted, if required.
2. The appeal is allowed on ground 1.
3. The decision of the First Respondent's adjudicators dated 12 April 2022 to strike out allegation 1 of the allegations brought by the First Respondent against the Second Respondent is quashed.
4. The sanction decision of the First Respondent's adjudicators dated 12 April 2022 in relation to the Second Respondent is quashed. For the avoidance of doubt, the determinations made by the panel of adjudicators on the facts, grounds and impairment in relation to the Second Respondent on allegations 2, 3 and 4 remain undisturbed, along with the interim suspension order.
5. The matter will be remitted to the same panel of adjudicators of the First Respondent with the following directions:
 - a. The panel of adjudicators shall determine the substance of allegation 1;
 - b. A fresh legal adviser shall be appointed under rule 33(b) of the First Respondent's Fitness to Practise Rules to advise the panel of adjudicators;
 - c. The panel of adjudicators shall redetermine sanction in light of their findings on allegation 1 and their previous findings on allegations 2, 3 and 4; and
 - d. The adjudicators shall be provided with a copy of this consent order.
5. The First Respondent shall pay the Appellant's reasonable and proportionate costs of the appeal in the agreed sum of £4,819 inclusive of VAT.
6. A party affected by the order may apply to have it set aside, varied or stayed. Any such application must be made not more than 7 days after the date on which the order was served on the party making the application.

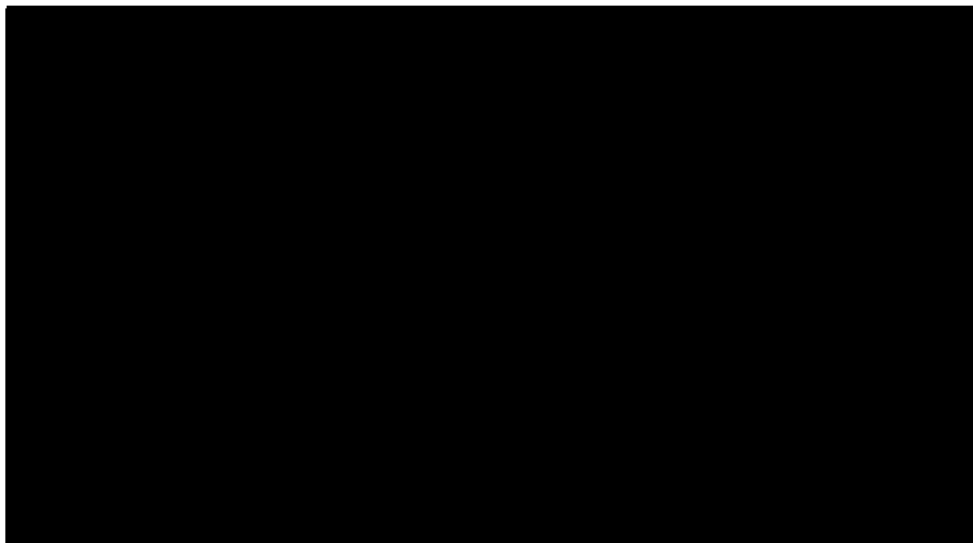
BY THE COURT

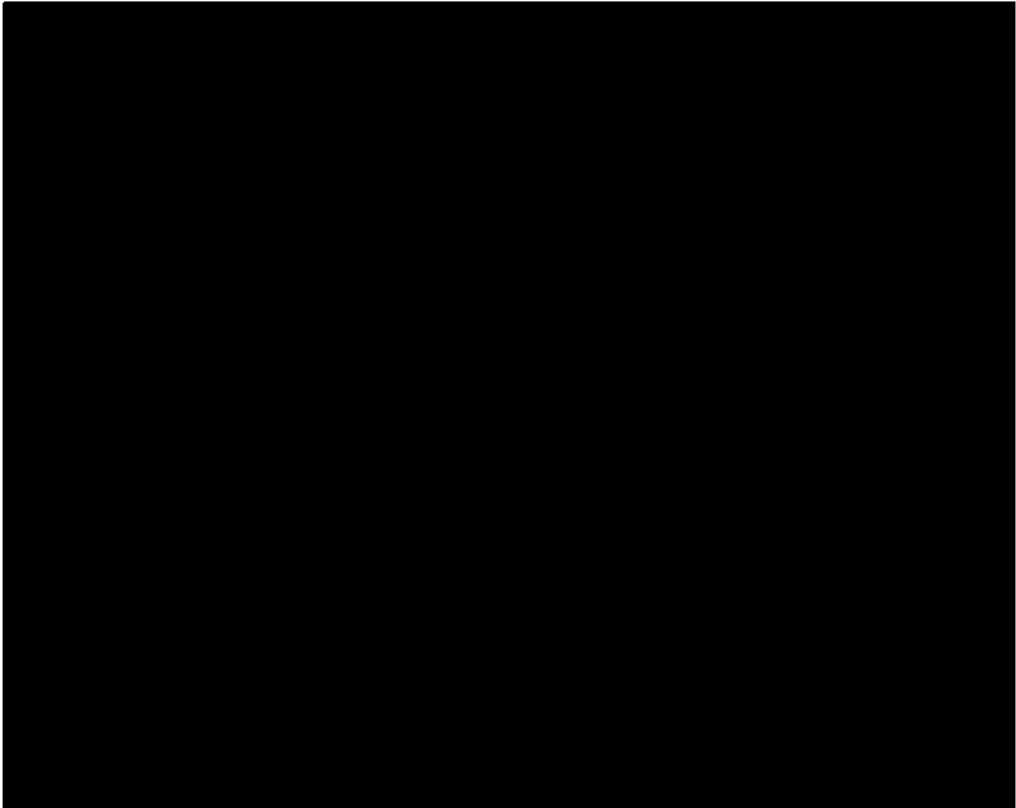
Dated: 30 November 2022

SCHEDULE 1

STATEMENT OF REASONS

1. This appeal was brought under section 29 of the National Health Service Reform and Health Professions Act 2002 (the "2002 Act") against the decision of the adjudicators of the First Respondent of 12 April 2022 to (i) strike out Allegation 1 as advanced by the First Respondent against the Second Respondent, and (ii) that the Second Respondent's fitness to practise was impaired within the meaning of Schedule 2, Paragraph 12 of the Social Workers Regulations 2018 (the "2018 Regulations"), and that she would be subject to a suspension order for a period of 18 months ("the Decision").
2. The Appellant's right to refer fitness to practise decisions made by the First Respondent arises by amendments to section 29 of the 2002 Act contained in Schedule 4 to the Children and Social Work Act 2017, in particular by way of the addition of Section 29(2A).
3. By section 36 of the Children and Social Work Act 2017, the First Respondent is the regulator of social workers in England. It took over that role from the Health and Care Professions Council (HCPC) with effect from 2 December 2019.
4. The Second Respondent is a registered Social Worker (registration number SW96747) and is regulated by the First Respondent.
5. The Second Respondent was subject to fitness to practise proceedings (FTP-72255) brought by the First Respondent under the 2018 Regulations. The allegations made against the Second Respondent (as subsequently amended) were:





6. The Appellant alleges that a suspension order and therefore the Decision is not sufficient to protect the public. The Appellant advances three Grounds of Appeal against the Decision:

1. *Ground 1 – The Adjudicators were wrong to “strike out” allegation 1*
2. *Ground 2 – The Adjudicators should have adjourned to allow [Social Work England] to particularise the allegations and re-serve the Registrant*
3. *Ground 3 - In the alternative, [Social Work England’s] failure adequately to particularise the allegations constituted a serious procedural irregularity and a form of “under prosecution”*

7. The First Respondent concedes the appeal on Ground 1. In light of this concession, it is not necessary to consider Grounds 2 and 3 which only arise for determination in the event that Ground 1 does not succeed.
8. The First Respondent also concedes that the Decision was not sufficient for protection of the public within the meaning of s29(4) of the 2002 Act.
9. The Appellant and the First Respondent have agreed that the decisions of the First Respondent's panel of adjudicators to strike out allegation 1 and on sanction should be quashed. The Appellant and the First Respondent also agree that the panel of adjudicators' determinations on facts, grounds and impairment in relation to allegation 2, 3 and 4 remain undisturbed.
10. The Appellant and the First Respondent have agreed that the matter should be remitted to the same panel of adjudicators, with the benefit of advice from a fresh legal adviser, to:
 - i. Determine the substance of allegation 1; and
 - ii. To redetermine the question of sanction in light of their findings on the substance of allegation 1 and their previous findings on allegations 2, 3 and 4.
11. In the light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.