

IN THE HIGH COURT OF JUSTICE

CLAIM NO: CO/4264/2014

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN:-

THE PROFESSIONAL STANDARDS AUTHORITY  
FOR HEALTH AND SOCIAL CARE

Appellant

-and-

(1) THE NURSING AND MIDWIFERY COUNCIL

First Respondent

(2) MS ALMAZ GEMECHU

Second Respondent

---

CONSENT ORDER

---

UPON the First Respondent conceding, and the Second Respondent agreeing, that the decision under appeal was unduly lenient within the meaning of s29 of the National Health Service Reform and Health Care Professions Act 2002

AND UPON the parties agreeing to the decision of the Conduct and Competence Committee (the "CCC") of the First Respondent on 5 August 2014 that the Second Respondent's fitness to practise is not impaired (the "Decision") being quashed and the matter being placed before a fresh panel of the First Respondent's CCC at a substantive hearing

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

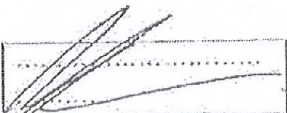
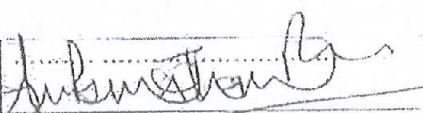
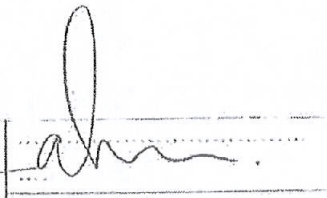
BY CONSENT



IT IS ORDERD THAT:

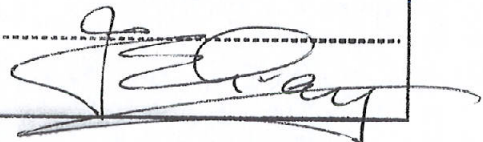
1. The appeal is allowed on the basis set out in Schedule 1.
2. The Decision (including the panel's individual decisions as to misconduct and impairment of fitness to practise) is quashed.
3. The matter be remitted to a differently constituted panel to proceed at a substantive hearing of the First Respondent's CCC on the basis of the facts found proved on 5 August 2014.
4. At the remitted hearing the documents before the First Respondent's CCC shall include those listed in Schedule 2.
5. The First Respondent is to pay the Appellant's reasonable costs of the appeal, to be assessed if not agreed.
6. The appeal hearing listed on 25 February 2015 be vacated.

WE CONSENT TO AN ORDER IN THE ABOVE TERMS

		
Capsticks Solicitors LLP	Anupama Thompson Assistant Director, Legal Services	Graeme Irvine Senior Legal Officer
1 St George's Road London SW19 4DR	Nursing and Midwifery Council 1 <sup>st</sup> Floor 1 Kemble Street London WC2B 4AN	Royal College of Nursing 20 Cavendish Square London W1G 0RN
Solicitors for the Appellant	Representative for the First Respondent	Representative for the Second Respondent
Signed: A JONES Dated: 14.01.2015	Signed: A. THOMPSON Dated: 14/1/15	Signed: G. IRVINE Dated: 15/1/15

ADMINISTRATIVE COURT OFFICE  
BY CONSENT ORDER AS ASKED

27 JAN 2015



*By the Court*

#### SCHEDULE 1

1. The Second Respondent is a registered nurse. On 5 August 2014, the Conduct and Competence Committee (the "CCC") of the First Respondent determined the Second Respondent's fitness to practise is not currently impaired (the "Decision").
2. The Appellant appealed against the Decision in reliance on the grounds as set out in the Grounds of Appeal as attached at Annex A.
3. The First Respondent accepts that the appeal should be allowed on the grounds that there was no, or no adequate, evidence to support the Panel's finding that the Second Respondent's fitness to practise is no longer impaired and the Decision was one which no reasonable panel could have reached. As such, the following Grounds of Appeal are conceded:
  - (i) Ground 2 – There was no, or no adequate evidence, to support the Panel's finding that the Registrant's fitness to practise is not currently impaired.
  - (ii) Ground 3 – The Panel erred by giving weight to irrelevant material.
  - (iii) Ground 4 – The Panel failed to have adequate regard to the public interest.
  - (iv) Ground 5- The finding of no impairment was one to which no reasonable Panel could have come.
4. The parties have agreed that the appeal be allowed, the Decision be quashed and the matter be remitted to a differently constituted panel to proceed at a substantive hearing of the First Respondent's CCC on the basis of the facts found proved on 5 August 2014.

#### SCHEDULE 2

1. The bundle before the First Respondent's CCC on 5 August 2014 (pp. 1-40).
2. The determination on facts of the First Respondent's CCC on 5 August 2014.
3. This Consent Order, including Annex A.