

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

Claim No. CO/2395/2016

THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

-and-

THE NURSING AND MIDWIFERY COUNCIL

First Respondent

MS MAXINE ELSTOB

Second Respondent



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 a child or a protected party, and the appeal not being an appeal from the Court of Protection;

AND UPON reading the statement of matters relied upon by the parties in support of the Consent Order attached at Schedule 1;

AND UPON the First Respondent conceding that the decision of its Conduct and Competence Committee panel ("the CCC/the panel") dated 17 March 2016 (in which the panel decided to allow the suspension order originally imposed upon the Second Respondent on 17 April 2014, and extended by orders of reviewing panels dated 15 December 2014 and 30 December 2015, to lapse upon its expiry on 23 May 2016) was not sufficient to protect the public and/or a decision which should not have been made within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended) ("the 2002 Act");

IT IS ORDERED BY CONSENT THAT:

1. The appeal is allowed;
2. The decision of the CCC on 17 March 2016 is quashed and substituted with an Order that:
 - a. the Second Respondent's fitness to practise is impaired on the basis set out by the CCC in its decision of 17 March 2016;
 - b. pursuant to s.29(9)(c) of the 2002 Act, the suspension order made on 17 April 2014 (and subsequently extended on 15 December 2014 and 30 December 2015) is extended until 19 August 2016.
3. The suspension order, so extended, shall be reviewed at a full panel hearing not less than 28 days prior to its expiry such review to be undertaken pursuant to Article 30 of the Nursing and Midwifery Council Order 2001 (as amended); The documents before the fresh panel hearing of the CCC on review of the substituted suspension order shall include but not be limited to those listed in Schedule 2.
4. The First Respondent is to pay the Appellant's reasonable costs of the appeal, to be subject to detailed assessment if not agreed.

SIGNED *[Signature]*.....

DATE 18/5/16.....

CAPSTICKS SOLICITORS
1 ST GEORGE'S ROAD
LONDON
SW19 4DR

SOLICITORS FOR THE APPELLANT

SIGNED *[Signature]*.....

DATE 18/5/16.....

MAXINE ELSTOB
3 SEVERN CLOSE
WELLINGBOROUGH
NORTHAMPTONSHIRE
NN8 6WF

SECOND RESPONDENT

SIGNED *SAIMA HIRJI* SAIMA HIRJI

DATE 18-05-2016

NURSING AND MIDWIFERY COUNCIL
1 KEMBLE STREET
LONDON
WC2B 4AN

FIRST RESPONDENT

Ken McK 19.5.16

CRANSTON J

By the Court

Schedule 1

**STATEMENT OF MATTERS RELIED UPON BY THE PARTIES
IN SUPPORT OF CONSENT ORDER ATTACHING THE GROUNDS OF APPEAL**

1. The Appellant has appealed against the decision of a panel of the First Respondent's Conduct and Conduct Committee ("the CCC/the panel") dated 17 March 2016, in which it decided that the suspension order imposed on the Second Respondent on 17 April 2014 and extended by subsequent panels on 15 December 2014 and 30 December 2015 should be allowed to lapse upon its expiry on 23 May 2016.
2. It is conceded by the First Respondent, for the reasons set out in paragraphs 3 and 4 of the Grounds of Appeal (a copy of which is attached to this Order) that the panel sitting on 17 March 2016 misdirected itself by deciding to allow the suspension order imposed by the second review panel on 30 December 2015 to lapse upon its expiry on 23 May 2016.
3. The parties therefore agree that the review decision dated 17 March 2016 be quashed by Order of the Court and substituted with an order that the Second Respondent's fitness to practise is impaired and the suspension order made on 17 April 2014 (and subsequently extended on 15 December 2014 and 30 December 2015) is extended until 19 August 2016.
4. The parties further agree that the provisions of Article 30 of the Nursing and Midwifery Council Order 2001 will apply to the substituted suspension order. Under Article 30(1) the substituted suspension order shall be reviewed prior to its expiry and under the provisions of Article 30(2) the Second Respondent may at any time apply for the suspension order to be reviewed.

Schedule 2

1. The First Respondent's Indicative Sanctions Guidance to Panels ("the ISG"), with particular reference to paragraphs 49-53 on Review Hearings;
2. Any evidence that is relevant to the key considerations set out in the ISG at paragraph 50;
3. This Consent Order including Schedules 1 and 2 and the Appellant's Grounds of Appeal;
4. The decisions of the CCC dated 17 April 2014, 15 December 2014, 30 December 2015 and 17 March 2016;
5. The notice of decision letter of the CCC panel dated 8 February 2013 in which it was ordered that the Second Respondent be subject to a 2 year Caution Order;
6. Any oral or written representations and/or documentation received by the First Respondent from the Second Respondent in relation to any of the decisions listed at paragraph 4 of this schedule.