



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

CO/712/2016

BETWEEN: -

THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

-and-

(1) THE NURSING AND MIDWIFERY COUNCIL
(2) MS SARAH JANE WATTON-GATHUA

Respondents

CONSENT ORDER

UPON the First and Second Respondents conceding, for the reasons set out in the Appellant's Grounds, that the decision of the First Respondent's Conduct and Competence Committee ("CCC") on 4 January 2016, was not sufficient for the protection of the public within the meaning of section 29(4) of the National Health Service Reform and Health Care Professions Act 2002 as amended ("the 2002 Act");

AND UPON the parties having agreed 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;

IT IS ORDERED BY CONSENT THAT:

1. The appeal is allowed.
2. The CCC decision dated 4 January 2016 is hereby quashed and is substituted with an Order that:
 - (a) the Second Respondent's fitness to practise is impaired on the basis as set out by the Conduct and Competence Committee in its decision of 10 July 2015;
 - (b) the suspension order dated 10 July 2015, extended by Mr Justice Sweeney by order dated 10 February 2016, or extended until 9 August 2016;
 - (c) the suspension order, so extended, shall be reviewed not less than 28 days prior to its expiry; such review to be undertaken pursuant to Article 50 of the Nursing and Midwifery Order 2001 as amended.

3. The documents to be placed before the First Respondent's CCC on review of the substituted suspension order shall include 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.
5. The hearing of this appeal listed for 13 April 2016 be vacated.

WE, THE UNDERSIGNED, CONSENT TO AN ORDER IN THE ABOVE TERMS

[Signature]
Senior Counsel Associate
Weightmans LLP

Weightmans LLP, for and on behalf of the Appellant

Date

6 April 2016

[Signature]

Tania Dosoruth, Senior Lawyer and In-house Counsel,
 for and on behalf of the First Respondent

Date

7 April 2016

The Second Respondent
 Ms Sarah Jane Watton-Gathua

Date

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 ("CCC") dated 4 January 2016, in which it decided that the Second Respondent's fitness to practise was no longer impaired.
2. The Grounds of Appeal (a copy of which is attached to this Consent Order) set out the legislative framework governing each of the review hearings and describe the background to the 6 month suspension order ("the substantive order") originally imposed on the Second Respondent by a CCC panel on 10 July 2015. Reviews of

By the Court

substantive orders are governed by Article 30 of the Nursing and Midwifery Order 2001, the text of which is set out at paragraph 15 of the Grounds of Appeal.

3. It is conceded by the First and Second Respondent that the review panel was wrong to decide on 4 January 2016 that the Second Respondent's fitness to practise was no longer impaired, for the reasons set out in the Grounds of Appeal.
4. The parties therefore consent to the remedy sought by the Appellant, namely that the review decision of 4 January 2016 be quashed by Order of the Court and substituted with an Order that the Second Respondent's fitness to practise is impaired and that the suspension order dated 10 July 2015, extended by Mr Justice Sweeney by Order dated 10 February 2016, be further extended until 9 August 2016.
5. The parties also agree that the provisions of Article 30 of the Nursing and Midwifery Order 2001 will apply to the substituted suspension order. Under Article 30(1) the substituted suspension order will be reviewed prior to its expiry and under the provisions of Article 30(2) the Second Respondent may at any time apply for the substituted suspension order to be reviewed.

SCHEDULE 2

DOCUMENTS TO BE PLACED BEFORE THE FIRST RESPONDENT'S CCC ON REVIEW OF THE SUBSTITUTED SUSPENSION ORDER, SHALL INCLUDE THE FOLLOWING:-

1. The First Respondent's Indicative Sanctions Guidance to Panels ("the ISG"), with particular reference to paragraphs 52-56 on Review Hearings,
2. Any evidence that is relevant to the key considerations set out in the ISG at paragraph 53,
3. This Consent Order including Schedules 1 and 2 and the Appellant's Grounds of Appeal.
4. The Determinations of the CCC dated 10 July 2015 and 4 January 2016.

By the Court