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Claim No: CO/4466/2016

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

BETWEEN:

PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE
Appellant

and

(1) GENERAL MEDICAL COUNCIL
(2) DR MOHIT SHARMA
Respondents



CONSENT ORDER

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

AND UPON the First Respondent conceding that the Suspension Order made at the hearing of the Medical Practitioners Tribunal ("the previous Tribunal") on 28 June 2016, which is the decision under appeal (the "Decision"), was not sufficient for the protection of the public within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002 for the reasons set out in the amended Grounds of Appeal;

AND upon the 2nd Respondent undertaking not to work as a medical practitioner in the United Kingdom pending re-determination of sanction;

BY CONSENT and

PURSUANT TO SECTION 29(8)(d) OF THE NATIONAL HEALTH SERVICE REFORM AND HEALTH CARE PROFESSIONS ACT 2002

IT IS ORDERED THAT:

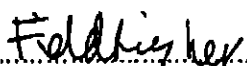
- 1 The appeal be allowed and the Decision as to sanction be quashed.

- 2 The matter be remitted to a freshly constituted Medical Practitioners Tribunal ("the Tribunal") for redetermination as to sanction within 3 months of the date of this order, or as soon as reasonably practicable thereafter.

- 3 At the hearing on sanction referred to in paragraph 2 above, the Tribunal shall have placed before it:
- (a) A copy of this Consent Order, including the Schedule;
 - (b) The documents placed before the previous Tribunal at the substantive hearing on 25 April and 28 June 2016;
 - (c) A complete transcript of the hearing before the previous Tribunal on 25 April and 28 June 2016; and
 - (d) The Record(s) of Determinations of the previous Tribunal dated 25 April and 28 June 2016.
- 4 The appeal hearing listed on 9 and 10 May 2017 with a time estimate of two days be vacated, so far as it relates to this appeal.
- 5 The First Respondent shall pay 65% of the Appellant's reasonable costs of the appeal, to be subject to detailed assessment if not agreed.

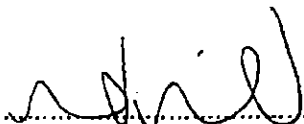
We consent to an order in the above terms.

Dated this 5th day of May 2017


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Fieldfisher LLP
5th Floor
Free Trade Exchange
37 Peter Street
Manchester M12 5GB

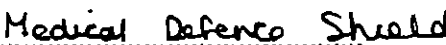
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Solicitors for the Appellant


.....
General Medical Council
3 Hardman Street
Manchester
M3 3AW

Ref:

First Respondent


.....
Medical Defence Shield
281-285 Bedford Road
Kempston
Bedford
MK42 8QB

Ref: Dr Sharma/PSA

Solicitors for the Second Respondent

By the Court

Claim No: CO/4465/2016

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

BETWEEN:

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

Appellant

and

**(1) GENERAL MEDICAL COUNCIL
(2) DR MOHIT SHARMA**

Respondents

CONSENT ORDER

**Fieldfisher LLP
5th Floor
Free Trade Exchange
37 Peter Street
Manchester
M20 3LR
Tel: +44 (0)161 200 1789**

SLE/HB3.55056.21

Appellant's Solicitors

Schedule 1

Set out below is the agreed statement of reasons and the wording of the directions to be placed before the Tribunal on remittal of the Decision, explaining the considerations which led to the Decision being quashed and the agreed remittal:

1. At the conclusion of the hearing on 28 June 2016, the Tribunal determined to suspend Dr Sharma's registration for a period of 12 months, to be reviewed shortly before the end of that period of suspension.
2. The Appellant appealed this decision on sanction to the High Court pursuant to s29 of the National Health Service Reform and Health Care Professions Act 2002 on the following grounds:
 - the Tribunal failed to consider adequately or at all the need to protect the public, and/or failed to give reasons for impliedly finding that it was not necessary for it to take action to protect the public in this case when deciding that Dr Sharma's fitness to practise was impaired;
 - the Tribunal failed to act in accordance with the GMC's Sanctions Guidance for members of medical practitioners tribunals and for the GMC's decision makers dated March 2016 (Sanctions Guidance), or give sufficient reasons for departing from it;
 - the Tribunal failed to consider the significance of Dr Sharma remaining on the sex offenders register and subject to a Sexual Offences Prevention Order until November 2019.
3. On 9 November 2016 the GMC lodged a skeleton argument in response to the appeal, in which it opposed the appeal. On 25 April 2017, the PSA filed amended Grounds of Appeal withdrawing certain aspects of their original Grounds of Appeal to which the GMC had objected, together with an amended Skeleton Argument. On 27 April 2017, the GMC in turn filed an amended skeleton argument in which it now concedes that, on the basis of the Grounds of Appeal as amended and now pursued by the PSA, the Tribunal's decision was insufficient for the protection of the public within the meaning of s29 of the National Health Service Reform and Health Care Professions Act 2002.

Directions to the Tribunal

4. This case is being placed before you for redetermination of sanction only. As well as this Consent Order, you have before you the documents placed before the previous Tribunal, the transcripts of the findings of the previous Tribunal and its previous decisions as to conviction, impairment and sanction. In addition, the PSA, GMC and Dr Sharma have agreed to you being directed as follows:
 - a. You should give explicit consideration in your determination to:
 - i. Any relevant parts of the Sanctions Guidance;

- ii. The public interest, and in particular the issue of the protection of the public and whether this is engaged on the facts of the present case;
- iii. The Sexual Offences Prevention Order imposed on Dr Sharma; and
- iv. The need to provide reasons for your decision.