

16/6/16

Claim No: CO/90/2016

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

BETWEEN:

PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

Appellant

and

(1) HEALTH AND CARE PROFESSIONS COUNCIL  
(2) SUSAN BOXALL

Respondents



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CONSENT ORDER

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

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 ORDERED THAT:

- 1 The appeal be allowed and the decision of the First Respondent's Conduct and Competence Committee (**the CCC**) on 3 December 2015 that the Second Respondent's fitness to practise was not currently impaired and that there was no case for the Second Respondent to answer on impairment be quashed.
- 2 The matter be remitted to a panel of the First Respondent's Health Committee (**the HC**) for redetermination.

3 The First Respondent shall pay the Appellant's reasonable costs of the appeal to be subject to detailed assessment if not agreed.

We consent to an order on the above terms.

Dated this 10 day of June 2016

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Ref: RFOS01/0396580039

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**Second Respondent**

ADMINISTRATIVE COURT OFFICE  
BY CONSENT ORDER AS ASKED

14 JUN 2016

*Chaett*

S. LOVETT  
ACO LAWYER

*By the Court*

## SCHEDULE

- 1 The Second Respondent is a registered occupational therapist.
- 2 At a hearing on 3 December 2015, the CCC determined that the Second Respondent's fitness to practise was not currently impaired and that there was no case for her to answer on impairment in relation to a competency grounded allegation in circumstances where the Second Respondent admitted having had mental health problems.

- 3 The Appellant appealed the CCC's decision in reliance on the following grounds:

Ground 1 – The First Respondent failed to allege that the Second Respondent's fitness to practise was impaired by reason of her mental health.

Ground 2 – The First Respondent failed to obtain or adduce adequate evidence as to the impact of the Second Respondent's mental health upon her fitness to practise as an occupational therapist.

Ground 3 – The CCC failed to direct the First Respondent to adduce the evidence described above.

Ground 4 – Having found that the evidence placed before it was capable of supporting a finding that the Second Respondent had demonstrated a lack of competence, the CCC failed to go on to inquire into (i) the reasons for any such lack of competence; and/or (ii) the impact of any such lack of competence upon her fitness to practise as an occupational therapist.

Ground 5 – By reason of grounds 1-4, the CCC did not consider adequately the real issues which arose in respect of the Second Respondent's fitness to practise, in particular the risk her mental health may pose to (i) those who will in future come under her care; and (ii) the wider public interest in the maintenance of confidence in the profession and standards within it.

Ground 6 – The CCC was wrong to read the letter from the Second Respondent's doctor dated 2 March 2015 as making it clear that the Second Respondent was fully fit for a role as an occupational therapist.

Ground 7 – The CCC erred in that upon acceding to the Second Respondent's application that there was no case for her to answer in respect of the allegation that her fitness to practise was impaired by reason of misconduct or lack of competence, it failed to refer, or even consider referring, the matter to the HC.

Ground 8 – The CCC erred in that upon acceding to the Second Respondent's application that there was no case for her to answer in respect of the allegation that her fitness to practise was impaired by reason of misconduct or lack of competence, it determined for itself that the Second Respondent's fitness to practise was not impaired by reason of her health, when it did not have sufficient evidence to do so.

- 4 The First Respondent accepts that the CCC's decision of 3 December 2015 should not have been made, within the meaning of section 29 of the National Health Service Reform and Health Care Professions Act 2002.
- 5 The parties have agreed that the matter should be remitted to a panel of the HC for redetermination.