

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

Steven Kovats QC, sitting as a deputy High Court judge

BETWEEN:

THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

- and -

(1) THE NURSING AND MIDWIFERY COUNCIL
(2) PAUL SIMPSON

Respondents



ORDER BY CONSENT

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 protected party and the appeal not being an appeal from a decision of the Court of Protection

AND UPON the Second Respondent being a nurse on the register established and maintained by the First Respondent under Article 5 of the Nursing and Midwifery Order 2001 ('the register')

AND UPON a panel of the Fitness to Practise Committee of the First Respondent having found on 12 March 2021 that the fitness to practise of the Second Respondent was not impaired by reason of misconduct ('the decision')

AND UPON the Appellant having lodged an appeal on 07 May 2021 against the decision of the Fitness to Practise Committee pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002

AND UPON the First and Second Respondent conceding that the decision of the Fitness to Practise Committee 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

BY CONSENT IT IS ORDERED THAT:-

1. The appeal is allowed.
2. The decision of the First Respondent's Fitness to Practise Committee that the Second Respondent's fitness to practise is not impaired is quashed, and substituted with a finding that the Second Respondent's fitness to practise is currently impaired by reason of his misconduct on public interest grounds.
4. The Second Respondent's case is remitted to a differently constituted panel of the Fitness to Practise Committee to determine what, if any, sanction is appropriate, in accordance with the documents set out in Schedule 1 and any additional evidence upon which the First and/or Second Respondents wish to rely, subject to that evidence being admissible in the usual way.
5. The First Respondent is to pay the Appellant's reasonable costs of the appeal, subject to detailed assessment in default of agreement.

Steven Kovatz QC

21 September 2021

Schedule 1

Documents to be placed before the Fitness to Practise Committee when determining what, if any sanction, should be imposed upon the Second Respondent to include:

1. The evidence placed before the original panel of the Fitness to Practise Committee
2. Transcripts of hearing held on 14 & 15 January 2021 and 11 & 12 March 2021 with the panel's decision and reasons on impairment redacted
3. The decision of the original panel dated 12 March 2021 with the decision and reasons on impairment redacted
4. A copy of this consent order and the Appellant's grounds of appeal.

BY THE COURT