



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

AC-2023-LON-002396

LONDON

AC-2023-LON-002396

THE PROFESSIONAL STANDARDS AUTHORITY  
FOR HEALTH AND SOCIAL CARE

Appellant

- and -

(1) HEALTH AND CARE PROFESSIONS COUNCIL  
(2) ROBERT BRIERLY WOODRUFF

Respondents

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ORDER BY CONSENT

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**UPON** the Appellant and First and Second Respondents 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** no 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 Paramedic on the register established and maintained by the First Respondent ('the Register')

**AND UPON** the Conduct and Competence Panel of the First Respondent's Fitness to Practise Adjudication Service ("the Panel") having decided that the fitness to practise of the Second Respondent was impaired by reason of misconduct and imposed a twelve month suspension order with review ('the Decision')

**AND UPON** the Appellant having lodged an appeal on 17 August 2023 against the Decision pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended)

**AND UPON** the First and Second Respondents conceding that the appeal should be allowed on the basis of the reasons set out in schedule 1 and the contents of schedule 2

**IT IS ORDERED THAT:-**

1. The appeal is allowed.
2. The Decision is quashed and substituted with an order that the Second Respondent's name be struck off from the Register.
3. The First Respondent is to pay the Appellant's reasonable costs of the appeal, in the sum of £9,200 (plus VAT).



\_\_\_\_\_  
For the Appellant



\_\_\_\_\_  
For the First Respondent



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For the Second Respondent

Dated: 13 February 2024

## **Schedule 1 – statement of reasons**

### **Introduction**

1. On 26th June 2021 the Second Respondent Paramedic, who had consumed approximately ten pints of Guinness and who was looking at his mobile telephone on the passenger seat next to him, caused or permitted the car he was driving to veer across the road into collision with and as a consequence killing, a cyclist (Person A, a father of five).
2. On 20th July 2022 the Second Respondent was convicted in the Crown Court of causing death by dangerous driving and sentenced to (i) a prison sentence of 5 years and 4 months (of which he is to serve half, 2 years and 8 months); (ii) a 5 year disqualification from driving, extended by the 2 years and 8 month period he will spend in prison; and (iii) pay a victim surcharge.
3. The period for which the Second Respondent will serve the custodial element of the sentence will expire on or about 20th March 2025. The remainder of the sentence, served in the community on licence, will then continue until 20th November 2027.
4. On 15th June 2023 the Conduct and Competence Panel of the First Respondent's Fitness to Practise Adjudication Service (the Panel):-
  - (a) found the Second Respondent's fitness to practise as a Paramedic impaired by reason of the above conviction on public interest grounds;
  - (b) directed the Registrar to suspend the Second Respondent's registration for a period of one year (the decision).
5. By reason of the provisions of Article 30(1) of the Health Care Professions Order 2001 the suspension will be reviewed by the Panel prior to its expiry, ie. prior to 15th June 2024, at which time the Second Respondent will have approximately 9 months of the custodial element of his sentence to serve and thereafter will be subject to the further 2 years and 8 months of the remainder of his sentence, (as above) until 20th November 2027.
6. By reason of section 29(1)(j) of the National Health Service Reform and Health Care Professions Act 2002 the decision is a relevant decision for the purposes

of that Act. The Appellant Authority has referred the decision to the Court pursuant to section 29(4) of the Act, that is on the basis that it not sufficient for the protection of the public.

7. By reason of section 29(7) of the Act the Court will treat the case as an appeal, to which the First and Second Respondents are parties.

#### Grounds of Appeal

8. The Appellant Authority appeals against the decision on the following grounds:-
  - (1) the decision arose from a serious procedural irregularity, in that neither the First Respondent nor the Panel conducted any or an adequate inquiry into the Second Respondent's evidence as to the nature of and the reasons for his use of alcohol or its relevance in the context of his fitness to practise and the public interest, about which (as the First Respondent's Case Presenter informed the Panel) they had been provided with no objective evidence and in respect of which the Panel undertook no consideration as to whether the Second Respondent should be asked to answer questions on oath;
  - (2) the Panel failed to have adequate regard to the nature and seriousness of the conduct which resulted in the Second Respondent's conviction, in particular:-
    - (a) the Panel stated that it did not identify any aggravating features to that conduct, when:-
      - (i) the Second Respondent chose to drive despite his wife refusing to allow him to take the car and sending him around to his father's house because it was obvious he was drunk and she was putting the children to bed;
      - (ii) prior to the collision in which Person A was killed the Second Respondent was aggressively tailgating another car and overtook that car dangerously;
      - (iii) prior to the collision he was using his mobile telephone while driving;
      - (iv) immediately prior to the collision he was looking at his mobile telephone on the passenger seat next to him;
      - (v) over two and half hours after the collision his blood or breath contained over twice the permissible amount of alcohol for lawful driving;

- (vi) this conduct took place in the face of the fact that he was employed as a Paramedic;
  - (vii) the conduct put members of the public at risk;
  - (viii) the conduct caused the death of a member of the public, irreplaceable to members of his family, who will suffer the devastating loss of Person A in the long term;
- (b) the Panel wrongly described the conduct as not fundamentally incompatible with registration as a Paramedic;
- (c) in light of the concerns described at (a) and (b), the Panel failed to undertake an adequate consideration of the impact of the conduct and the resulting conviction upon the public interest;
- (3) the Panel wrongly proceeded on the basis that the conduct which resulted in the Second Respondent's conviction was remediable (and that in its view had been remedied), and as a consequence focused (including in its reading and application of the First Respondent's Sanctions Policy) only or principally on the Second Respondent's remediation, remorse and insight, without any consideration that (or even whether) the conduct was of a such a nature that mitigating factors are to be considered as of lesser significance than the public interest;
- (4) the Panel failed to undertake any consideration of, and/or to adequately explain, how the public interest could be satisfied by a suspension with a review hearing when at the time of the review hearing the Second Respondent would still be a serving prisoner (the Panel appears to have believed that he has already been released on licence<sup>1</sup>) and would remain subject to a sentence of imprisonment (custodial and then served in the community on licence) for a further three years and five months;
- (5) by reason of the matters set out at Grounds (1) to (4) above, in making the decision the Panel (which failed to make reference in the decision to Article 3 of the Health and Care Professions Order 2002, the over-arching objective) failed to have adequate regard to the public interest.

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<sup>1</sup> As at the date of signature of this consent order, the Second Respondent has stated that he was serving his sentence in Category D open conditions in custody

Relief

9. The Appellant respectfully invites the Court to allow this appeal and quash the decision and (i) in substitution for the decision, to direct the Registrar to strike the Second Respondent off the Register (a striking off order); alternatively (ii) to remit the case to the First Respondent's Fitness to Practise Adjudication Service with a direction that a differently constituted Conduct and Competence Panel consider the issue of sanction in accordance with such further directions as the Court sees fit; and, in any event (iii) to make provision for the Respondents to pay the Appellant's costs of this appeal.

**Schedule 2– position of the Second Respondent**

1. It be noted that the Second Respondent, having accepted a) the seriousness of the allegations made in the Fitness to Practise proceedings and b) that it is justified in order to maintain public confidence in the profession, has agreed that his name be removed from the Register maintained by the First Respondent.

**Approved by Morris J**

**08/04/2024.**

**BY THE COURT**