



AC-2023-LON-001206  
21 Nov 2023

CO/1391/2023  
LONDON

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IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN:

THE PROFESSIONAL STANDARDS AUTHORITY  
FOR HEALTH AND SOCIAL CARE

Appellant

- and -

(1) NURSING AND MIDWIFERY COUNCIL  
(2) JULIAN ALEXANDER PHILLIP FAULKNER

Respondents

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ORDER BY CONSENT

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**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.

**AND UPON** the First Respondent's Fitness to Practise Committee ("the Committee") having found on 31 January 2023 that the Second Respondent's registration should be suspended for a period of 6 months ('the decision')

**AND UPON** the Appellant having lodged an appeal on 6 April 2023 against the decision of the Nursing and Midwifery Council's Fitness to Practice Committee pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended)

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

**BY CONSENT IT IS ORDERED THAT:-**

1. The appeal is allowed.
2. The Committee's decision in relation to impairment and sanction is quashed.
3. The Second Respondent's case is remitted to a differently constituted Committee of the First Respondent for a rehearing.
4. The First Respondent must ensure that a copy of this consent order is placed before the differently constituted Committee on remittal.
5. The First Respondent is to pay the Appellant's reasonable costs of £5,937.44.

Dated: 9 November 2023

Browne Jacobson LLP  
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**Solicitors for the Appellant**



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**The First Respondent**



NMC Senior Lawyer

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**For the Second Respondent**



RCN Legal Officer & CILEX Lawyer

Consent order approved  
Upper Tribunal Judge Cooke  
sitting as a Judge of the High Court  
Date: 20th November 2023

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

1. On 31 January 2023 the Committee decided that the Second Respondent (“the Registrant”) should be suspended for a period of 6 months for making a recording of a resident being abusive to her and playing this recording to a colleague.
2. The parties agree that the decision of the Committee was not sufficient for the protection of the public on the following grounds:
  - a. The Committee’s decision on impairment that the Registrant did not present a risk to patients was based on a material misdirection. Further, or alternatively, the Committee provided inadequate reasons for its conclusion.
  - b. In reaching its decision on sanction, the Committee failed to adequately address in its reasons how the registrant’s previous misconduct relating to his removal from the register in 2009 was relevant to the appropriate sanction.

BY THE COURT