



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

Case: AC-2023-LON-003504

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BETWEEN:

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

Appellant

- and -

**(1) THE NURSING AND MIDWIFERY COUNCIL
(2) PRIMINDER MANN**

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 none of the parties 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 13 September 2023 that the fitness to practise of the Second Respondent was impaired by reason of misconduct, and having decided to impose a

twelve month suspension order with review upon the Second Respondent ('the decision')

AND UPON the Appellant having lodged an appeal on 17 November 2023 against the decision pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002

AND UPON the First and Second Respondents conceding the appeal and agreeing 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 decision of the First Respondent's Fitness to Practise Committee to impose a twelve month suspension order with review upon the Second Respondent is quashed and remitted to a fresh panel of the Fitness to Practise Committee with the directions as set out in Schedule 2.
3. The First Respondent is to pay the Appellant's reasonable costs of the appeal, subject to detailed assessment in default of agreement.



Ros Foster

Hill Dickinson LLP

On behalf of the Appellant



Susan Jean

Nursing and Midwifery Council

On behalf of the First Respondent

A handwritten signature in black ink on a light blue background. The signature is cursive and appears to read 'P. Mann'. Below the signature is a dotted line.

Priminder Mann

The Second Respondent

Approved by Matthew Butt sitting as Deputy High Court Judge

26/03/2024

BY THE COURT

Schedule 1 - Statement of reasons

The decision of the Committee at sanction stage was wrong for the following reasons:-

1. The panel erred in their application of the factors set out in the First Respondent's guidance on Suspension orders, to the charges they had found proved as follows:-
 - a) The charges found proved related to two separate shifts several weeks apart and included five separate allegations of dishonesty. The panel were wrong to find that the Second Respondent's misconduct was "a single instance of misconduct".
 - b) Having found that the Second Respondent's misconduct was indicative of an attitudinal concern the panel erred in finding that there was "no evidence of harmful, deep-seated personality or attitudinal problems."
 - c) Having found that the Second Respondent's insight was limited and there was a risk of repetition of her behaviour they erred in finding that the "the Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour."
2. The panel failed to consider whether the Second Respondent's rejected defence to a charge of dishonesty should have been treated as an aggravating feature in accordance with the First Respondent's guidance at SAN-2 entitled "Considering sanctions for serious cases" and Sawati v General Medical Council [2022] EWHC 283.
3. The panel failed to adequately explain why they considered that a striking-off order was a disproportionate sanction.

Schedule 2 - directions

1. The proceedings brought by the First Respondent against the Second Respondent to be remitted to a fresh panel of the First Respondent's Fitness to Practise Committee as soon as reasonably practicable to consider the issue of sanction.

2. The First Respondent to place before the Committee:
 - a) a copy of this consent order and attached Schedules;
 - b) the previous panel's decision in relation to the facts and impairment;
 - c) transcripts of the hearings which took place in relation to proceedings against the Second Respondent (save in respect of the sanction stage);
 - d) the documentary evidence that was considered at those hearings;
 - e) subject to the requirements of relevance and fairness, any other evidence in relation to the question of sanction presented on behalf of either the First or Second Respondent.