



**In the High Court of Justice
King's Bench Division
Administrative Court**



AC-2023-LON-002222

**In the matter of an appeal under s 29 of the National Health Service
Reform and Health Care Professions Act 2002**

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

Appellant

-and-

(1) SOCIAL WORK ENGLAND

(2) [REDACTED]

Respondents

On an application by the parties for approval of consent orders

Following consideration of the documents lodged by Appellant

**ORDER by Jonathan Moffett KC, sitting as a Deputy High Court
Judge**

1. By consent:

- a. the appeal is allowed;
- b. the decision that the Second Respondent's registration be made subject to a Suspension Order is quashed. For the avoidance of doubt, the determinations made by the Panel on the facts, misconduct and impairment in relation to the Second Respondent remain undisturbed;
- c. a direction that the Second Respondent's entry be removed from the register maintained by the First Respondent is substituted;
- d. the First Respondent is to pay the Appellant's reasonable costs in the agreed amount of £5,659.96; and
- e. there be no order as to costs as between the Appellant and Second Respondent.

2. The consent order dated 21 November 2023, which provides for orders in relation to anonymity, is not approved.

3. Liberty to apply in relation to paragraph 2 above.
4. Any application made pursuant to paragraph 3 above to be considered on the papers in the first instance.

Reasons

1. The parties have agreed two consent orders.
2. The first consent order disposes of the appeal in terms replicated in paragraph 1 of the order above. I am content to approve that consent order for the reasons set out in the statement of reasons provided by the parties, which is reproduced below.
3. The second consent order provides for the anonymity of the Second Respondent and any of her relatives. I am not persuaded that it would be appropriate to approve that consent order, for the following reasons:
 - a. no application for anonymity was made when the appeal was filed in July 2023, and apparently no application was made subsequently until the consent order was filed;
 - b. no explanation has been provided by the parties as to why the anonymity order is necessary now;
 - c. a record of the decision under appeal, which names the Second Respondent, is available on the Social Work England website (although the I note that the underlying reasons do not appear to have been published);
 - d. it appears that at the Second Respondent's Crown Court trial, an anonymity order was made in respect of her daughter only – there does not appear to have been any anonymity order in place in respect of the Second Respondent at the trial;
 - e. on the face of it, therefore, the proposed anonymity order would apply to information that is already in the public domain.
4. I recognise that the parties may be able to point to reasons why it would be appropriate to make an anonymity order, particularly if the order is more focused than the current draft. I therefore grant liberty to apply on this point.

Statement of reasons

1. The Allegations before the Panel were as follows:

Whilst registered as a social worker, on 28th September 2023, at Winchester Crown Court, you were convicted of one offence of neglect.

Your fitness to practise is impaired by reason of your criminal conviction in the United Kingdom

2. The Appellant appealed against the decision on the grounds that the decision was not sufficient to protect the public for the following reasons:

- (1) The offence of which the Second Respondent was convicted was fundamentally incompatible with professional practice as a social worker. The only rational sanction was erasure, and as such the Panel's decision to impose a one-year order of suspension was not sufficient.
- (2) Further and additionally, pursuant to Rule 35A of the Social Work England (Fitness to Practise) Rules 2019, the Second Respondent had to be deemed to have had knowledge that (i) her daughter's leg was injured; and (ii) the injury was non-accidental. The Second Respondent nevertheless maintained before the Panel that neither was the case and that she was innocent of the offence. The Second Respondent's maintenance of her innocence in the face of this criminal conviction and its facts upon which it was based were also fundamentally incompatible with professional practice as a social worker.
- (3) The Panel failed to have adequate regard to the significance of the Second Respondent's maintenance of her innocence in the face of a conviction which it was not open to the Panel to go behind.
- (4) In finding that the Second Respondent's relationship involved domestic abuse, the Panel failed to have regard to the sentencing judge's findings that:

"There are no issues of serious domestic violence in the background here, which might be said to be above and beyond verbal arguments and the stresses and strains within your martial household caused by your domestic condition at the time and the future of your army career. I did not detect within the household environment an atmosphere of physical domestic violence which may be commonplace in many cases of this nature which the Court has to deal with. There were a number of stresses and strains which came to a head around the time of this incident which clearly made you lose control of yourself and that was totally out of character."

In turn, the Panel therefore erred when weighting these personal circumstances against the seriousness of the misconduct.

(5) In assessing the Second Respondent's conviction upon professional standards and upon public confidence, the Panel (correctly) had regard to the likelihood of repetition of the misconduct in the Second Respondent's own personal life (at [51]), but (incorrectly) failed to have regard to:

- (a) Risks associated with the Second Respondent being confronted with analogous situations in her professional life; and
- (b) The impact upon public confidence of the Second Respondent returning to practice, given the particular nature of the conviction in this case and its close bearing upon high profile and sensitive issues relating to social work.

3. The First Respondent accepts that the appeal should be allowed on:
 - a. Ground 1, insofar as, in light of the particular facts of this case which resulted in the Second Registrant's conviction, the only rational decision open to the Panel was removal.
 - b. Ground 3, insofar as the Panel failed to provide adequate reasons as to how the registrant's maintenance of innocence influenced their decision on sanction.
 - c. Ground 4, insofar as the Panel failed to provide adequate reasons as to why their decision was different to the sentencing judge's remarks.
 - d. Ground 5(b), insofar as the Panel did not adequately explain why a 12-month suspension would maintain public confidence in the profession.
4. The Second Respondent consents to the making of this order.
5. The Appellant and the Respondents have agreed that the decision of the Adjudicators on sanction should be quashed. For the avoidance of doubt, the decision of the Adjudicators in relation to facts, statutory grounds and impairment remains undisturbed.
6. The Appellant and the Respondents also agree that the only decision open to the Adjudicators on sanction was to impose a removal order. The Appellant and the Respondents therefore agree that the Court should exercise its power under section 29(8)(c) of the 2002 Act to substitute the Decision in respect to sanction with a removal order pursuant to paragraph 13(1)(a) of Schedule 2 to the 2018 Regulations.
7. In light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.

Signed: Jonathan Moffett KC

Dated: 30 January 2024

The date of service of this order is calculated from the date in the section below

For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]
or the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: 08/02/2024

Solicitors:
Ref No.