

PRESS RELEASE
14 April 2011

We welcome the judgment by the High Court today in granting our appeal against the decision of the Nursing and Midwifery Council's (NMC's) Conduct and Competence Committee (the CCC) in relation to Mrs Paula Grant. The Court's decision shows that we continue to protect patients.

The High Court's judgment in this case represents a significant clarification of our power to appeal decisions made by regulators' Fitness to Practise (FtP) panels. For the first time, the High Court has:

- Decided that a regulator's panel's decision about impairment of fitness to practise was 'unduly lenient'¹
- Substituted its own finding that the professional's fitness to practise is impaired; and therefore
- Ordered the NMC's CCC to consider imposing a sanction.

On 21 April 2010 the CCC decided that Mrs Grant had been guilty of misconduct, but did not find that her fitness to practise was impaired. We used our statutory power to appeal this decision to the High Court. We were concerned that the CCC's decision was unduly lenient and that it failed to protect the public because:

- Mrs Grant had committed serious misconduct over a lengthy period of time
- The CCC accepted Mrs Grant's account of various matters when it was not appropriate to do so in light of the CCC's other conclusions
- The CCC wrongly concluded that Mrs Grant's failings were capable of being put right, and that they had in fact been put right
- The CCC did not provide adequate reasons for its decision
- The CCC did not give proper weight to the public interest in reaching its decision.

We are pleased that in its judgment in this case the High Court has underlined the importance of public interest issues, the upholding of proper professional standards and the maintenance of public confidence in the profession, in addition to the direct protection of members of the public. We review all final decisions made by the nine health professional regulators' FtP panels.

Harry Cayton, our Chief Executive said: 'We welcome the outcome of this appeal, which was supported by the NMC itself. The judgement confirms the value of our power to appeal final decisions made by regulators' Fitness to Practise panels in the interests of patients and the public. Independent scrutiny of health professional regulation in order to protect patients and the public interest remains important.'

For further details of our work, please visit our website: www.chre.org.uk

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¹ Previous court judgments have concerned "unduly lenient" findings of fact and sanctions

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NOTES TO THE EDITOR

1. We promote the health and well-being of patients and the public in the regulation of health professionals. We scrutinise and oversee the work of the nine regulatory bodies² that set standards for training and conduct of health professionals
2. We share good practice and knowledge with the regulatory bodies, conduct research, and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health professionals. We are an independent body accountable to the UK Parliament
3. We have the power to appeal final FtP decisions made by the regulators' FtP panels to the High Court of Justice in England, Northern Ireland and Wales and to the Court of Sessions in Scotland
4. We refer decisions to the courts where there are no other effective means of protecting the public. Referring a decision to court may mean that the decision is overturned and therefore the public is better protected from that particular individual, but the main value of our review of final decisions is to improve the overall quality of the regulators' processes and decisions that are made by their FtP panels
5. If a case proceeds to a High Court hearing, the possible outcomes are that our appeal is:
 - Dismissed
 - Allowed and the relevant FtP panel decision is quashed
 - Allowed, and the High Court substitutes its own decision in place of the decision made by the FtP panel
 - Allowed, and the case is referred back to the FtP panel for reconsideration.
6. For a summary of other appeals we have made and their results, please see our website <http://www.chre.org.uk/satellite/155/>

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² General Chiropractic Council, General Dental Council, General Medical Council, General Optical Council, General Osteopathic Council, Health Professions Council, Nursing and Midwifery Council, Pharmaceutical Society of Northern Ireland, General Pharmaceutical Council.