

## Appeals Circular A0X/26

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## Learning points from recent appeals

### Facts

- ▶ Where both witnesses (a registrant and a witness for the regulator (person A)) give diametrically opposed accounts, the tribunal should:
  - ▶ set out its analysis having carried out a careful and thorough assessment of the reliability and credibility of Person A's account, both internally and by reference to any external evidence (in this case, email evidence and evidence from the registrant) to decide whether the burden of proof is satisfied. It is not enough for the tribunal to state that it regarded Person A's evidence as credible and consistent and that it therefore accepted their evidence; the registrant is entitled to the benefit of any proper doubt that flows from a thorough and comprehensive weighing up of *all* of the evidence;
  - ▶ set out a sufficient analysis of what it made of any inconsistencies and lack of recollection that might be present in Person A's evidence, the lack of contemporaneous complaint, and the lack of corroborative evidence. The tribunal is also obliged to consider whether there is anything that might impact their account for example if they were erased from a regulatory register or they had ill will towards the registrant.

[Njoku v Nursing and Midwifery Council \[2026\] EWHC 2282 \(Admin\)](#)

### Impairment and Sanction

- ▶ Where the matters being considered are of such a level of seriousness that erasure is the only appropriate sanction, it is not wrong to impose an immediate

order of suspension during the appeal period, even though there was no interim order in place throughout the investigation, and the registrant had been working without breaches of professional standards between the allegations and the findings.

[Asiedu-Baning v Nursing and Midwifery Council \[2026\] EWHC 1936 \(Admin\)](#)

#### IOTs

- ▶ When considering whether to make an interim order, the tribunal should note the following:
  - ▶ where a criminal investigation has concluded without further action due to there being no evidence, but the GMC maintains that an interim order remains necessary, before making an order, the tribunal should expect the GMC to identify evidence in support of how there is a risk to the protection of the public/public interest or realistically how this would be obtained. It is not enough for the GMC to say that they will review the criminal investigation (which itself failed to establish an evidential link);
  - ▶ where the allegations have no connection to the registrant's clinical practice, but the GMC argues that interim conditions are necessary for the protection of the public, before making an order, the tribunal should expect the GMC to set out the basis for any clinical risk.

[General Medical Council Petitioner \[2026\] CSOH 75](#)<sup>1</sup>

Kind regards  
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<sup>1</sup> This is a case involving a high court extension of an interim order, but the principles may be applied to interim orders generally.