

## ***Dr Bhat and Mrs Bhat v National Health Service Litigation Authority***

### Background

Following the issuing of a termination notice by their integrated care board (ICB) regarding their General Medical Services (GMS) Contract, Dr and Mrs Bhat referred their dispute to Primary Care Appeals. Dr and Mrs Bhat argued that the changes to the practice partnership, which resulted in one partner leaving, should not have resulted in termination of the Contract but simply a continuation of the Contract by way of a variation notice. The ICB considered the Contract to have been terminated by operation of law on dissolution of the partnership. An implied interim Contract is now in place. Primary Care Appeals found in favour of the ICB on 10 November 2022. Dr and Mrs Bhat challenged the decision.

### Judicial review

On 22 February 2024, Judgment was issued stating that we had erred in our decision. The decision was quashed.

The Judgment held that with regard to the 2019 partnership changes [which were the subject of the dispute and this Judgment] we were wrong to conclude the Regulation 15 of GMS Contracts Regulations 2015 and Schedule 1 of the GMS Contract did not apply in this case. This error was made on the basis that the exiting partner did not consent to the partnership continuing.

The Judgment states that it should be the consequences of the changes not the circumstances of the changes which apply. Agreement to continue in partnership is not essential. In this case, on the formation of the new partnership, the business continued without interruption.

Separately, we were wrong to conclude that as the partnership no longer existed, the Commissioner could not hold a contract with an entity that no longer existed. The Judgment states that it is the individuals concerned which constitute the partnership. A partnership is not a legal entity. In addition, we wrongly accepted NHS England's interpretation of Schedule 3 of GMS Contracts Regulations 2015 and Clause 26.3 of the GMS Contract. This provision does not place an obligation on the partnership but simply an option so was not applicable in this case.

The full judgment can be read here:

[Vikram Bhat & Anor, R \(on the application of\) v NHS Litigation Authority - Find case law - The National Archives](#)

### **Document Control - Change Record**

Date	Author	Version	Reason for Change
4 March 2024	Head of Appeals	1	New document