Case study

professional standards authority
for Health and Social Care

Fitness to Practise appeal

Abuse of process and the public interest

Background/context

The PSA was successful in bringing an appeal against a General Pharmaceutical Council (GPhC) panel decision in relation to a pharmacist who was allegedly involved in a fraudulent scheme for the sale of medication overseas.

Outcome

We successfully appealed the Panel's decision to grant a stay of proceedings on grounds of an abuse of process, which had stopped the case after the panel wrongly directed itself on the erroneous closure of the case by the Council and R2's legitimate expectation that the case would not be re-opened. The decision was quashed and remitted back to a new panel to consider.



Fitness to Practise appeal case study

Abuse of process and the public interest

Outcome (continued)

The judgment is significant because the court confirmed that public bodies have the power to correct decisions which they have made based on a fundamental mistake of fact and that:

> **"A stay for abuse of process is an exceptional step. [...] The public interest in the overarching statutory objectives of protecting the public and maintaining professional standards and public confidence in the profession has to be weighed in the balance, together with the public interest in the integrity of the disciplinary process. [...] On re-considering the matter on the basis that a public authority may resile from a legitimate expectation in circumstances where it is fair to do so, I do not consider that the exceptional step of a stay can be justified, as the competing public interests can be fairly met by alternative measures, namely a full reconsideration of his case." [105-106]**

Find out more

- Read the full judgment in this case
- Our power to appeal regulators' final fitness to practise decisions
- Our oversight of regulators