



Neutral Citation Number: [2025] EWHC 164 (Admin)

Case No: AC-2024-001835

IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/01/2025

Before :

THE HONOURABLE MRS JUSTICE COLLINS RICE DBE CB

Between :

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

Appellant

- and -

**(1) HEALTH AND CARE PROFESSIONS
COUNCIL**

(2) Mr IHAB SHARF

Respondents

Mr Andrew Deakin (instructed by Hill Dickinson) for the **Appellant**
Mr Guy Micklewright (instructed by Blake Morgan LLP) for the **First Respondent**
The **Second Respondent** appeared in person

Hearing date: 23rd January 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 29 January 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mrs Justice Collins Rice

Introduction

1. Mr Sharf is a member of a regulated healthcare profession. He is a hospital operating-department practitioner. He has been the subject of professional disciplinary proceedings relating to a number of conduct issues in a three-month period between November 2017 and February 2018. He came before a disciplinary committee at a substantive hearing between 3rd and 14th September 2021. The committee found his fitness to practise impaired on grounds of misconduct. It imposed an 18 month Conditions of Practice Order on him.
2. That CoP Order was formally reviewed by another disciplinary committee on 13th March 2023. It found Mr Sharf's fitness to practise still to be impaired. It extended the CoP Order, with some variations, for a further 9 months.
3. A second formal review took place on 1st December 2023. The committee on that occasion found Mr Sharf's fitness to practise still to be impaired, including because he had not fully complied with the conditions of practice to which he had been subject. It extended the previous CoP Order for another 4 months without further variation.
4. A disciplinary committee was then convened for a third review on 3rd April 2024. But instead of making a substantive decision about the continuation or discharge of the conditions of practice, it took the view that it had no jurisdiction or legal power to do so because the order it had been asked to review had already expired.
5. So Mr Sharf went back to working as normal, and unconditionally.
6. The decision of the committee last April is now challenged by the Professional Standards Authority for Health and Social Care ('the PSA'). It says the committee convened in April 2024 did not have any proper legal basis for the decision it took. It says the committee did not address itself properly to the relevant law and so went wrong in law in finding the previous order had expired and it had no jurisdiction to review it. It says that as a result it has, unlawfully and contrary to its overarching obligations to the public, permitted Mr Sharf to practise without conditions, when there has been no substantive confirmation that that is the proper thing to do, including from the perspective of his professional colleagues and his patients.

The present appeal

(a) Legal framework of the appeal

7. In bringing this challenge, the PSA exercises a statutory function conferred on it by Parliament.
8. That function is set out in section 29 of the National Health Service Reform and Health Care Professions Act 2002.

9. Section 29(4) enables the PSA to refer the 3rd April 2024 committee decision to the High Court if it considers it was ‘*not sufficient ... for the protection of the public*’. That is what it has done here.
10. Section 29(4A) explains that:

Consideration of whether a decision is sufficient for the protection of the public involves consideration of whether it is sufficient—

 - (a) to protect the health, safety and well-being of the public;
 - (b) to maintain public confidence in the profession concerned;
and
 - (c) to maintain proper professional standards and conduct for members of that profession.
11. The High Court is then to treat the PSA’s reference as an appeal, with the body that made the relevant decision, and the person to whom the decision relates, as respondents to that appeal (section 29(7)). The Health and Care Professions Council (‘HCPC’), which is responsible for the committee convened on 3rd April 2024 in this case – and, therefore, for the purposes of this appeal, the body who made the relevant decision – is the first respondent. Mr Sharf himself is the second respondent.
12. My options and powers on this appeal are set out in section 29(8):

The court may—

 - (a) dismiss the appeal,
 - (b) allow the appeal and quash the relevant decision,
 - (c) substitute for the relevant decision any other decision which could have been made by the [committee], or
 - (d) remit the case to [a committee] to dispose of the case in accordance with the directions of the court ...
13. Whether I dismiss or allow the appeal depends on how I understand and answer the key question of whether the committee’s decision last April, that the previous CoP Order had expired and could not be reviewed, was wrong. As to that, I am subject to the guidance of the Court of Appeal in the case of *Ruscillo v Council for the Regulation of Healthcare Professionals* [2004] EWCA Civ 1356 starting at [69]. If I conclude that the decision of the committee on 3rd April 2024 was wrong about the expiry of the previous order, so that its decision as a result is insufficient for the protection of the public, then I will allow the appeal. I can also allow the appeal if I consider there to have been a serious procedural or other irregularity in the proceedings before that committee such that I cannot decide whether it was sufficient for the protection of the public or not.

(b) *The parties’ positions*

14. All the parties agree that, one way or another, this case turns on the short answer to the question of whether or not the CoP Order made on 1st December 2023 had expired when the committee convened to review it on 3rd April 2024.
15. The committee thought it had.
16. The PSA says that conclusion was not properly open to it – it was wrong.
17. The HCPC, the first respondent, indicated to the PSA by email on 4th July 2024 that, having looked into the matter, it agreed that its committee had indeed gone wrong on 3rd April in exactly the way contended for by the PSA. So they agreed that the PSA would liaise with Mr Sharf with a view to the consensual disposal of this High Court appeal.
18. By order of Mr Justice Ritchie dated 30th August 2024, the Respondents were directed, if so advised (that is, if they wanted actively to contest the appeal), to file and serve a Respondent’s Notice no later than 21st September 2024. Mr Justice Ritchie’s order also gave forward directions for the hearing of the appeal, including for the filing and serving of Respondents’ skeleton (outline) arguments three days before the hearing.
19. The HCPC did not file a Respondent’s Notice because it did not want to contest the substance of the appeal. Mr Sharf also did not file a Respondent’s Notice in accordance with the directions of Mr Justice Ritchie, or at all. He did not file a skeleton argument. He had not put anything formally in writing before the Court. But nor did he agree to consensual disposal of the appeal. An oral hearing was listed accordingly.
20. Mr Sharf attended the hearing in person. His position is that the committee in April 2024 was quite right to find that the previous order had expired.
21. Before I can answer this key question about whether or not the order had expired, I need to set out why that was so important. And I need to examine what sort of question it is in the first place. In particular, I need to decide whether it is (a) a matter of fact and evidence, including as to the construction of the 1st December CoP extension order – which is what the committee convened the following April seems to have thought, and what Mr Sharf urged me to concentrate on, or (b) a question of law, turning on the application of the statutory provision made by Parliament – which produces its own answer, one which effectively binds me.
22. That in turn requires me to set out the legal framework governing these matters.

(c) *Legal framework governing the HCPC and its disciplinary committees*

23. That framework is contained in a statutory order made under an Act of Parliament – the Health Professions Order 2001.
24. The 2001 Order requires the HCPC to exercise its functions with the overarching objective of protecting the public (Art.3(4)). It requires disciplinary committees to exercise their functions by having regard to that overarching objective (Sch.1, paragraph 19(10A)). The function which, on the face of it, fell to the committee last April was the review of a conditions of practice sanction imposed and extended by

predecessor committees. It had by law to bear the overarching objective in mind in approaching the discharge of that function.

25. This overarching objective of protecting the public is fundamental to this entire regulatory framework. It reflects why healthcare professionals are regulated in the first place. Mr Sharf told me how disempowered regulatory bodies can make professionals feel, and he told me that he had felt oppressed and unfairly treated by the long drawn-out disciplinary and legal processes to which he has been made subject over recent years. The whole regulatory edifice, however, has been put in place by Parliament to protect the public – especially individuals at their most unwell, helpless and vulnerable who have to be able to have complete trust and confidence in the professionals in whose hands they must place themselves, including in life and death situations such as operating theatres. Parliament has tasked the HCPC with responsibilities for making sure that that trust and confidence is well founded. And it has done so by making laws which courts and tribunals must themselves obey and enforce.
26. Those laws ultimately govern the disciplinary and review proceedings to which Mr Sharf has been subject. The review function for which the committee was convened on 3rd April 2024 is set out in Article 30 of the 2021 Order as follows (I set this provision out in full because its correct interpretation and application is potentially key to the outcome of this appeal):

Review of orders by the Health Committee and the Conduct and Competence Committee

30.—(1) Before the expiry of an order made under article 29(5)(b) or (c) by the Conduct and Competence Committee or the Health Committee, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee, shall review the order and may, subject to paragraph (5)—

(a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;

(b) with effect from the expiry of the order, make an order which it could have made at the time it made the order being reviewed;

(c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

(2) Subject to paragraph (1), on the application of the person concerned or otherwise, at any time an order made by the Conduct and Competence Committee or the Health Committee under article 29(5)(b) to (d) is in force, the Committee which made the order or, if the matter has been referred to the other

Committee, that Committee, may review the order and may take any of the steps referred to in paragraph (4).

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to—

(a) confirm the order;

(b) extend, or further extend, the period for which the order has effect;

(c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);

(d) replace the order with any order which it could have made at the time it made the order being reviewed and the replacement order shall have effect for the remainder of the term of the order it replaces;

(e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;

(f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the Committee which made the order or, where appropriate, the Committee mentioned in article 33(3)(b) may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the Committee which made the order appealed from and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8), a Practice Committee shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(12) On an appeal under this article the Council shall be the respondent.

Consideration

(a) *The scheme of Article 30*

27. Where conditions of practice have been imposed on a professional by a formal disciplinary procedure, the scheme of Art.30 provides for two routes to a formal committee review.
28. The first is set out in Art.30(1)(a). That imposes a *duty* for a committee to review a CoP Order before it expires. The second is set out in Art.30(2) and (4). That gives a *power* to a committee (including on an application by the professional themselves) to review an order at any time during its currency.
29. There is no dispute that in both cases, the function must be exercised while the previous order is still extant. That is the effect of the opening words of Art.30(1) – ‘*Before the expiry of an order made...*’. And it is the effect of the provision in Art.30(2) ‘*at any time an order made ... is in force...*’.
30. That is why the question of whether the 1st December 2023 order was extant on 3rd April 2024 is so important. If it was not extant, there was neither a duty nor a power to conduct the review.
31. Art.30 not only sets out two paths to review, it makes different provision for the exercise of the review function in each case.
32. On a *mandatory* review under Art.30(1), the committee is given a power to (a) extend the period of the order it is reviewing, (b) make a different order which could have been made at the time of the original order or (c) where the order under review is a suspension order, replace it with a (different) conditions of practice order. In each case, including where an extension is made, that is expressed to be *with effect from the date on which the order under review would (otherwise) have expired*.

33. That is not surprising. The scheme of the review function set out in Art.30(1) is carefully designed to leave no gaps. Where conditions of practice have been imposed, that is because the protection of the public – the overarching objective of any disciplinary committee – requires them. Those conditions *have to* be reviewed *before* the order expires, to check whether or not the protection of the public still requires them. If it does, and a straightforward extension of the period of the conditions is determined to be appropriate, then that extension, for the duration determined by the committee, is put in place by law in a seamlessly consecutive manner. The committee decides on the length of the extension, but the law decides when it begins and ends. That is precisely so as to avoid any possible ambiguity or doubt about whether and when conditions of practice are in force, and therefore to ensure the clarity and effectiveness of the uninterrupted protection of the public.
34. The provision made by Art.30(4) in the case of *discretionary* applications for review under Art.30(2) is different. There is still a power to extend, but the words creating seamless consecutiveness (*‘with effect from the date on which the order would, but for this provision, have expired’*) are omitted. And provision is made for a more flexible range of powers than is available on a mandatory review – including, for example, varying the conditions imposed under the previous order for so long as it continues in force, and for *reducing* the period of the conditions.
35. Again, that is not surprising. While the protection of the public remains an overarching consideration on an application under Art.30(2), such applications do not necessarily proceed from the *duty* of the HCPC to ensure that conditions of practice do not expire without being reviewed. So the imperative to guarantee seamless consecutiveness, where extension or other future provision is made, will not be present in every case. It is left to the discretion of the committee.
36. Although Art.30(2) refers principally to applications made by professionals, it leaves open the possibility that the HCPC itself may apply for a review under its provisions ‘at any time’ while an order is force. That need not therefore be in the nature of a ‘pre-expiry’ review of the sort it is mandated to make under Art.30(1), which is forward-looking with the end-date of the extant order in mind. But the scheme of Article 30 does give primacy to the mandatory route to review and the provisions which go with that: Art.30(2) (and (4)) is made *‘Subject to paragraph (1) ...’*.

(b) *The application of Article 30 to the sequence of earlier orders*

37. The original CoP order imposed on Mr Sharf was made on 18th September 2021 and expressed to be for a term of 18 months. That order was made under the provisions of Article 29 of the 2001 Order and Mr Sharf was present when it was made. Article 29(10) provides for a period of 28 days within which an appeal may be brought against such an order, and Article 29(11) provides that the order made is not to have effect before the expiry of that period. So the 18 month period provided for therefore ran from 12th October 2021 to 12th April 2023.
38. The committee undertaking the first review, on 13th March 2023, confirmed that exact expiry date in its decision, and therefore confirmed its own jurisdiction to review, since the order still had a month to run. It was proceeding on a reference from the HCPC, but was exercising its functions further to Art.30(2) and (4) – the discretionary route, rather than the mandatory route. That is apparent from the explicit reference to those

provisions at [42] of the committee's determination on that occasion, and from the fact that it exercised the more flexible powers provided by Art.30(4) including by discharging or varying some of the previous conditions of practice. At the same time, because it was extending the period of the original order, its decision was of course properly consistent with the primary duty under Art.30(1) to ensure that an order does not expire without being reviewed. It is not clear from the materials before me whether the discretionary approach was at the specific request of HCPC, but at any rate it appears to have been uncontroversial at the time.

39. The committee on that occasion ordered that '*The Registrar is directed to vary the current Conditions of Practice Order and extend it for a period of nine months with immediate effect*'. Art.30, like Art.29, provides for a 28 day period within which to bring an appeal, but, unlike Art.29, makes no provision for that period to have suspensory effect on the running of the period ordered. Also, as I have already said, Art.30(4), unlike Art.30(1), makes no provision for that period to run consecutively from the (otherwise) expiry date of the order under review. There was in other words no provision made by law for the start and end date of the nine-month extension period ordered. So it was a matter for the committee.
40. The parties all appear to have proceeded on the basis that the period began running immediately, and therefore expired on 13th December 2023. That is not a straightforward deduction, since it is predicated on the committee having either (a) provided for the reduction of the period of the previous order before adding the 'extension' – it did have the power to do that under Art.30(4)(c), but there is no indication in its determination that it did so consciously and there is no explanation given for any such reduction, or (b) envisaged a period of overlap between the two orders, which is problematic where variation had been made and the two orders were inconsistent. Perhaps the best explanation is that the committee clearly intended the *variation* to be immediately activated, including because in some respects it lifted the restrictions placed on Mr Sharf – and that the new order should therefore effectively substitute for the old in its entirety going forward from the date it was made.
41. The review committee convened on 1st December 2023 expressly confirmed an expiry date of 13th December for the previous order, and therefore its own jurisdiction to review, since the order had 12 days still to run.
42. The HCPC had asked the committee on that occasion to make a straightforward extension of the CoP order on public protection grounds, including on grounds of Mr Sharf's failure to comply, since the previous order was made, with the conditions imposed on him. The committee did so, on that basis. There is no indication or suggestion that the parties or the committee were proceeding on any basis other than by way of the discharge of HCPC's duty under Art.30(1) to ensure an order was reviewed before it expired, and the exercise of the committee's functions accordingly. It ordered that: '*The Registrar is directed to extend the Conditions of Practice Order for a period of four months with immediate effect*'.

(c) ***The decision under challenge***

43. The committee convened on 3rd April opened proceedings by stating that it was charged to undertake '*a review of a Substantive Order originally imposed on 14th September*

2021, the third such review. The order is due to expire on 4th April 2024'. Neither of those dates is obviously referable to the history set out above.

44. The committee had been under way for a time, when Mr Sharf raised an issue about the expiry of the previous order. He took the committee to his entry on the public register on the HCPC website, which said that his conditions of practice expired on 1st April 2024. The HCPC presenting officer said that this was just a mistake, and that the mistake had already been explained to Mr Sharf. The chair accepted that explanation and the committee proceedings continued until the committee retired to deliberate. It returned to ask HCPC's presenting officer for assistance with the expiry date of the previous order; she took the committee to HCPC's database where an expiry date of 4th April had been entered against Mr Sharf's name. But Mr Sharf disputed that, by reference to the 1st April date on the HCPC public website.
45. That led to further discussion and submissions. The HCPC presenting officer referred to Art.30(11) and its provision for a 28 day appeal period to run '*beginning with the date on which notice of the order or decision appealed against is served on the person concerned*'. She said that referred to the date on which the written decision is formally sent to an individual, and that in Mr Sharf's case that would have been on 4th December 2023. She said that meant the order expired on 4th April 2024.
46. The committee's legal assessor did not think Art.30(11) was at all relevant to the situation before it. The committee thought about the issue further over the lunch adjournment. When it resumed, the HCPC presenting officer submitted a new analysis that the December committee had confirmed an expiry date for the previous order of 13th December; it was clearly exercising its functions under Art.30(1); by operation of Art.30(1)(a) the four month extension was applied consecutively to the previous order – that is from 13th December 2023 – and so the order made on that basis expired on 13th April 2024.
47. It appears that the committee chair was minded to accept that. The chair asked the legal assessor for his observations. He said he had not encountered the issue before. He pointed to the inconsistency of the HCPC's latest position with its own records and previous correspondence, and indeed its earlier position before the committee. He said, '*if I am asked to interpret what that order made on 1st December says I advise that it says the order comes into effect immediately and that is on 1st December. If that is the correct position I am afraid that the Health and Care Professions Council is out of time because the order has expired.*' HCPC made no further submissions. Mr Sharf urged the committee to base its decision on the legal assessor's analysis.
48. That is what the committee did. Its conclusion: '*The Panel has determined that it was right to adopt the clear language of the determination made by the second review Panel on 1st December 2023. Accordingly, it determines that the order made on 1st December 2023 expired on 1st April 2024. Therefore, there is no current order for the Panel to review.*'

(d) Analysis

49. The panel treated the question of the period and expiry of the 1st December 2023 order as essentially a question of fact and evidence – and in particular of the interpretation of

the wording of that order, including in the context of the subsequent documentary evidence.

50. In all the circumstances, that is understandable. That was after all the approach everyone had taken in relation to the order made on 23rd March 2023 – with the very same language of ‘*with immediate effect*’. The 4th April 2024 expiry date on which the committee had initially set out was itself clearly wrong – the legal assessor was quite right that the appeal provisions (which of course did not have suspensory effect on the start date of extension orders) had nothing to do with it. And HCPC’s own public register entry for Mr Sharf contained the 1st April date.
51. As I have set out, what ‘*with immediate effect*’ meant in the 23rd March order was at least potentially a live issue in a review in which a committee was exercising its powers under Art.30(2) and (4) and had to make its own decision about the start date. In those circumstances, it *was* a question of evidence and interpretation as to what it had decided about that. But the scheme of Art.30 gives primacy to the Art.30(1) duty and the provisions that go with it. There is nothing to displace the conclusion that the committee on 1st December had been convened in the discharge of HCPC’s duty under Art.30(1) and therefore that the seamless consecutiveness provision of Art.30(1)(a) applied. The question of the activation of the order made on that occasion was not therefore a question of fact and evidence, nor of the interpretation of the order. The committee in December decided the period of the extension, but the law decided its start date. So the April committee had no power to treat the start date of the December order as a question of evidence about the previous committee’s intentions. It was a question of the operation of the law.
52. And the effect of the law is clear. The extension period identified in the order made on 1st December operated consecutively to the expiry of the order made on 23rd March. That order expired on 13th December. So the order made on 1st December ran from 13th December 2023 to 13th April 2024.
53. That being so, the question of interpreting ‘*with immediate effect*’ in the December order (as opposed to the March order) did not properly arise at all. Perhaps therefore it suffices to observe that this may be regarded as conventional language for the drafting of legal orders. It relates to the legal force or effectiveness of the order itself – including, for example, for giving rise to appeal rights. The appearance of this language in the December order *could not* have related to the start and end dates of the period of the extension consistently with Art.30(1)(a), because it was the law contained in that Article itself which determined the start and end dates.

(e) **Conclusions**

54. Since the order made on 1st December 2023 expired on 13th April 2024, that meant that the committee convened on 3rd April 2024 was wrong to conclude it had already expired and that it had no jurisdiction to conduct a review. On the contrary, the previous order had not expired and the committee was *obliged* to conduct and determine a review – one, moreover, to be conducted with reference to the overarching objective of the protection of the public.
55. The committee in April had no power or choice to come to any other view. So the decision it took was wrong in law, and one it had no entitlement to take. It found or

introduced ambiguity where there was none. It opened up dispute where the law left no room for it. And as a result, the conditions of practice imposed on Mr Sharf fell away without the committee having reviewed them as it was legally required to do.

56. That decision of the committee was plainly wrong. It was also not sufficient for the protection of the public, because its effect was to permit conditions of practice imposed for the very purpose of protecting the public to lapse without deciding whether or not they were still needed for that purpose.
57. In these circumstances, applying the law as Parliamentary statute directs me to do, I will allow this appeal.

(f) Further observations

58. I have taken some time to set out the relevant law and my analysis, because it would be understandable if Mr Sharf, looking at my conclusion in isolation, found it baffling. If the question on this appeal had been about the evidence, then the dating and language of the 1st December order, and the date on the public website, might have been determinative. But I have set out why none of that turns out to be even relevant. The statute law itself produces the answer.
59. The scheme or machinery of the law in Art.30 of the 2001 Health Professions Order – which is the law I am bound to apply and which provides a definitive answer in this case – is quite complex. But its whole purpose is to produce simplicity and clarity about when extended CoP orders are extant. And although the legal engineering may be complicated, the outcome should never be anything other than complete clarity for both professionals and the public about whether or not conditions of practice are in force.
60. In so providing, however, Parliament must have reckoned without the risk that the regulatory system itself would introduce doubt and uncertainty where the law was meant to rule that out. It is obviously regrettable that the committee went wrong in April 2024 and that Mr Sharf – and the public – have been left in a state of uncertainty for some 10 months since about how his practice stands. But it is also regrettable that HCPC itself introduced so much confusion about the matter, in getting its records and correspondence wrong and in not providing a clearer basis to the review committee for the exercise of its functions in the first place.
61. It is imperative that there is clarity at all times about the currency of CoP orders, not least when they are (repeatedly) extended. So HCPC might wish to reflect on how it could be clearer about this in future. It might, for example, be desirable for orders made further to Art.30(1) to state in terms the period for which they are in force, including the start and end dates, according to the provisions of Art.30(1)(a). And it might be desirable for orders made further to Art.30(2) and (4) to spell out exactly when the periods they provide for begin and end. Relying on the language of ‘*with immediate effect*’ in the latter case, and using it bare in the former, may be adequate from a legal point of view, but as this case powerfully illustrates it does not speak for itself to everyone for whom its meaning is vitally important. That is not satisfactory. The situation is in part a product of the scheme of Art.30 itself and the disorientating result that the identical or similar words can mean different things in different orders depending on which route to review has been taken. But there is a clear imperative for the total elimination of all possible ambiguity in this matter – for individual

professionals who are entitled to know where they stand, for review committees who need to confirm their jurisdiction, and for the public for whose benefit this entire apparatus is set up. There is no reason to think that cannot be straightforwardly achieved by spelling out the relevant period of an extension order (and indeed originating orders) by routinely specifying the start and end dates on their face.

Decision and next steps

62. For the reasons I have given, I am allowing the PSA's appeal. The question of the start and end dates of the order made in December 2023 was not a question of evidence and interpretation, it was a question of law. The law provided that the order ran from 13th December 2023 to 13th April 2024. That was the only conclusion properly open to the committee convened on 3rd April 2024. The order on that date still had ten days to run. So the conclusion that it had expired and the committee lacked jurisdiction was wrong.
63. I am going to quash the decision of the review committee on 3rd April 2024 that the previous order had expired. I am going to substitute for it a decision that there was an extant order in place at the time and that there was a duty to carry out a review of it.
64. But what happens now is another question.
65. What else, if anything, I might direct was discussed to some extent before me at the hearing, but I indicated that, in the event that I allowed this appeal, I would afford an opportunity for everyone to make further submissions about any next steps.
66. I will allow a brief opportunity for the parties to reflect further on that, and to come up if possible with an agreed draft order about it. I would usually expect that to provide for outstanding matters to be dealt with on the papers rather than for scarce court time to be taken up with a further hearing, but that is itself something for the parties to reflect on, and something I may have to make a decision about if they cannot agree. Meanwhile, the following indications are intended to help the parties make progress.
67. The situation we are left in is that the committee convened on 3rd April 2024 decided not to do – or rather not to conclude and determine – a review, when it was in law under an obligation to do so. That decision will now be set aside.
68. But I cannot rewrite history. This has already been a long drawn-out process. The misconduct issues for which Mr Sharf was originally disciplined are now seven years old. By April 2024 he had been under conditions of practice for more than three years. The most recent extension had been for a relatively short period – four months. Mr Sharf has been practising without conditions for the past ten months.
69. This is a procedural history which, on the materials before me, cannot fairly be said to be of Mr Sharf's making. He has never, so far as I have been made aware, appealed any of the orders to which he has been made subject. We may need to look more closely at what efforts have been made more recently to help him understand why the PSA and HCPC had to ask the High Court to revisit this whole matter. But the original confusion about the dates of the orders cannot be attributed to him or to anyone other than HCPC.
70. At the same time, the public has not had the benefit, to which it is entitled by law, of a pre-expiry review of whether the CoP to which Mr Sharf had been subject were – or

are – still necessary. That is not something on which I am in any position to take a view myself. It requires assessment by healthcare professionals (and up to date evidence). I expressed a preliminary view at the hearing of this appeal that I do have a power in the present circumstances, further to section 29(8)(d) of the 2002 Act, to remit this case to a differently-constituted committee to consider whether the CoP in force on 3rd April 2024 should now be reinstated and if so for what period. But whether that is something which is properly indicated in the interests of protecting the public is a matter which the regulatory bodies must reflect on in the first place, including by reviewing the whole situation we find ourselves in, and if necessary make a case for. There is a degree of urgency about that. If, notwithstanding the lapse of time since last April, there is assessed to be a material risk of it turning out that there has been, and is, after all a continuing need for Mr Sharf to be subject to conditions on his practice as a result of his former misconduct, then from the point of view of the public, the sooner that is addressed and resolved the better. That is only fair to Mr Sharf also.