Case study

professional standards authority
for Health and Social Care

# Fitness to Practise appeal

## An erroneous approach to a non-engaging witness

### Background/context

The PSA was successful in bringing an appeal against a General Pharmaceutical Council (GPhC) panel decision where the issue of a witness summons had been dismissed on grounds that the main witness was vulnerable, but there was no evidence that he was or considered himself to be, which resulted in a finding of no case to answer. The witness had initially engaged and although this became sporadic before the hearing, he had not said that he no longer wanted to engage and give evidence.

### Outcome

The court confirmed that the panel had taken an erroneous approach to the witness' evidence. The fact that a witness was the alleged victim of a sexual act did not automatically mean that they were vulnerable, and vulnerability was only relevant to the issue of whether special measures should be employed in the hearing. Further, the inability to address routine non-attendance by vulnerable witnesses would be contrary to the public interest in maintaining proper conduct by members of



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### Outcome (continued)

the profession, promoting the welfare of the public and maintaining public confidence in the profession. The decision was quashed and remitted back to a new panel.

The decision is significant as it considers the approach to be taken to vulnerable witnesses giving evidence as well as to the correct procedure to follow for an application to offer no evidence.

### Find out more

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