First-tier Tribunal Care Standards

The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008

NCN: [2025] UKFTT 00313 (HESC)

Case No. 2024-01145.EA

Hearing at Birmingham Civil Justice Centre 24/02/25 to 28/02/25

BEFORE
Tribunal Judge – T. Thorne
Specialist Member – Mr. J. Hutchinson
Specialist Member- Ms. M. Harris

BETWEEN

Dr. Sacha Simon

Appellant

-v-

Care Quality Commission (CQC)

Respondent

DECISION

Representation

The Appellant: Mr. J. Ogunshakin, Counsel
The Respondent: Ms. T. Deignan Counsel

Background

1. The following is taken from the Respondent's skeleton argument and accurately sets out the background. This case involves the appeal dated 29 May 2024 by Dr Sasha Simon (the Appellant) against the decision of the Care Quality Commission (the Respondent) contained in a Notice of Decision (NoD) letter dated 3 May 2024. The NoD adopted the Respondent's Notice of Proposal (NoP) dated 13 March 2024 to cancel the Appellant's registration as a Provider in respect of the Regulated Activity of Diagnostic and screening procedures; Family planning; Maternity and Midwifery services; Surgical Procedures; and Treatment of disease, disorder or injury which was carried out from the Whitestone Surgery, 82 Bulkington Lane, Nuneaton, Warwickshire CV11 4SB.

2. Until his suspension from the GP Performers List by NHS England (NHSE) and the General Medical Council (GMC) the Appellant had been providing his services as a single handed GP from the Whitestone Surgery, together with a Practice Nurse (SM2), a Healthcare Assistant (SM4) [HCA], a Practice Manager (SM10, the Appellant's wife), a cleaner and two receptionists.

3. The Practice is situated within the Coventry and Warwickshire Integrated Care System (ICS) and delivers General Medical Services (GMS) to a patient population of approximately 2,364. This is part of a contract held with the NHSE. The practice is not part of any Primary Care Network (PCN); a PCN is a wider network of GP practices that work together to address local priorities in patient care.

Restricted Reporting Order

4. The Tribunal makes a restricted reporting order under Rule 14(1) (a) and (b) of the 2008 Rules, prohibiting the disclosure or publication of any documents or matter likely to lead members of the public to identify the users of the service in this case so as to protect their private lives.

Late Evidence

5. During the hearing the Appellant submitted new evidence at various stages of the proceedings. In relation to this new material, the Tribunal applied rule 15 of the Tribunal Procedure (First Tier Tribunal) (Health Education and Social Care Chamber) Rules 2008 and took into account the overriding objective as set out in rule 2 and admitted the late evidence as it had some relevance to the issues in dispute.

The Hearing

Evidence on behalf of the Respondent

6. The Tribunal heard the oral testimony and took into account the written evidence of the following witnesses:
    a. Dr Janet Hall, CQC National Clinical Advisor for General Practice & GP Specialist Advisor. She was part of the inspection of 12 January 2024 and the assessment of 13 December 2024, reviewing documentation.
    b. Yvette Delaney, CQC inspector. She was part of the team for the assessments of 11 July 2024 & 13 December 2024
    c. Dr Zishan Syed, CQC GP Specialist Advisor. He was part of the team for the assessments of 11 July 2024 & 13 December 2024
    d. Amanda Lyndon, CQC Deputy Director
    e. Shanaz Munim, CQC Operations Manager
    f. Timothy Sacks, Director of Primary Care of Coventry and Warwickshire ICB who provided information about concerns identified by the ICB.
    g. The Panel also read the witness statement of Louise Naylor, former CQC inspector who was involved in the inspection of 12 January 2024.

7. Their evidence can be summarised as follows:

Previous History

8. The Appellant was registered with the Respondent as a Provider on 16 May 2014. On 3 November 2015 and 27 November 2018 CQC inspections were carried out with overall ratings of "Good". On 17 September 2020 the Appellant was suspended by NHSE from the GP Performers list and on 6 November 2020 the Appellant was suspended by the GMC.

9. The witnesses explained that after his suspension by NHSE and the GMC the Appellant was prevented from providing any clinical services. These services were provided from the Surgery by locum GPs of the Appellant's choice through Humanitas Healthcare Services (HHS) led by one of the locum GPs (SM1), together with Practice Nurse (SM2), a Healthcare Assistant (SM4), a Practice Manager (SM10, the Appellant's wife), a cleaner and two receptionists.

10. It was also explained that even whilst suspended, because he was the Nominated Individual (NI), the Appellant remained responsible for the standards of care provided through the Practice; as the NI the Appellant retained responsibility to ensure that the fundamental standards had been reached and were maintained.

The 12 January 2024 Inspection

11. On 12 January 2024 an unannounced inspection of Whitestone Surgery by the CQC was undertaken by Dr Janet Elizabeth Hall and Louise Naylor. They discovered evidence of the following breaches of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 [as set out in the Scott Schedule]:

12. **Regulation 17 Good governance**
    a. Failure to ensure that care provided other than by a registered medical professional was overseen by appropriately qualified persons, which put patients at risk
    b. Failure to implement an impartial 'Freedom to Speak Up' system.
    c. Failure to respond to reduced work patterns of staff member responsible for clinical governance and oversight.
    d. Ineffective system(s) to review test results and audit medication regimes (e.g., failure to identify potential cause(s) of anaemia)
    e. Lack of regular auditing of infection prevention and control arrangements
    f. Staff unaware of clinical audits
    g. Failure to undertake analysis/reviews of prevailing data trends, i.e., low disease prevalence and low prescribing practice
    h. Lack of effective systems to proactively identify and manage incidents
    i. Lack of adequate risk assessments.
    j. Failure to assess risks associated with medical emergencies and/or to implement mitigation action(s).

k. Systems to support quality improvement in the service were not effective
l. Failure to ensure that clinical records are accurate and updated so that, e.g., locum GPs are aware of patients' changes of circumstances
m. Failure to ensure that test results are accurately and promptly filed meaning that patient records were inaccurate and/or outdated.
n. Lack of records in relation to staff fitness
o. Lack of systems to ensure safe storage of prescription stationery
p. Failure to record complaints and subsequent steps in an organised manner.
q. Inadequate arrangements to ensure appropriate cover available during core hours

13. **Regulation 12 - Safe care and treatment**
    a. Failure to safely administer medicines in line with published guidance and/or adequately monitor the potential side effects of DMARD and DOAC medicines
    b. Failure to carry out effective medicine reviews to develop treatment plans (i.e., prescription cascade)
    c. Ineffective patient safety alert system resulting in, e.g., unsafe prescription practices.
    d. Unlawful administration of vaccines and medicines and failure to warn patients of risk(s) adequately
    e. Inadequate systems in place to ensure that vaccinations are stored at the appropriate temperature.
    f. Long-term condition reviews conducted by persons lacking the relevant qualifications and/or without adequate clinical oversight, which resulted in potential missed diagnoses and/or poor control of conditions.
    g. Failure to undertake NHS Health Checks, which put patients at risk of non-detection/deterioration of long-term conditions
    h. Failure to stock emergency medicines to treat and manage various emergency conditions
    i. Lack of appropriate emergency medical equipment
    j. Inadequate arrangements to ensure that infection prevention and control standards were being met and maintained.
    k. Lack of formal arrangements to provide care on Thursday afternoon (during core hours)

14. **Regulation 13 - Safeguarding service users from abuse and improper treatment**
    a. Failure to record safeguarding alerts
    b. Lack of information sharing with other services
    c. Failure to keep effective safeguarding registers.

15. **Regulation 18 - Staffing**
    a. Failure to ensure that medicine reviews and diabetes reviews are carried out by individuals with appropriate training, qualifications,

competence and skills, i.e., persons who are not registered healthcare professionals acting without clinical oversight from a GP.

b. Lack of detailing training logs maintained for staff.
c. Failure to undertake and document staff appraisals regularly.

16. Dr Janet Elizabeth Hall explained how serious these breaches were for patient safety. For example, results from a search of 7 patients who had been prescribed Methotrexate suggested that 3 patients had not had the required monitoring in the last six months. Another search identified that 2 patients were prescribed Azathioprine and one of these patients appeared not to have had the required monitoring in the last six months. Methotrexate and Azathioprine are immunosuppressants which can have serious adverse effects on the liver, lungs, gastrointestinal system, skin and bone marrow. Patients should be monitored closely to identify signs of liver toxicity, bone marrow suppression, anaemia, reduced white cells and reduced platelets.

17. In addition she explained that 4 patients appeared to be overdue blood test monitoring from results coded in their records and there were no proper records of medication reviews. Moreover, the MHRA issued drug safety updates in October 2019 and June 2020, reminding clinicians of the need to regularly monitor patients taking direct oral anticoagulant medicines DOACs, especially those at increased risk, for example the elderly and those with renal impairment. However, searches identified that 43 patients had been prescribed direct oral anticoagulant medicines (DOACs) in the previous six months. 38 (88%) of these patients had never had a creatinine clearance level checked and 40 (93%) had not had a creatinine clearance level checked in the last 12 months. Without having knowledge of the patient's creatinine clearance level, it is not possible to determine whether they are having renal function monitoring in the correct timeframe, or if they are prescribed an appropriate dose of DOAC. She reviewed the records of five patients selected at random who had never had a creatinine clearance level calculated and found concerns that could impact on patient safety in them all.

18. Even more worrying was her testimony that when she discussed the findings of the DOAC search with the Appellant he was not aware of the need to calculate creatinine clearance levels or how calculations were done. Although the Appellant was not currently doing clinical work, her opinion was that this lack of knowledge demonstrated that he was not up to date with current guidelines.

19. She also explained that the MHRA had issued a drug safety update in 2014 which advised that Omeprazole or Esomeprazole (medicines to reduce acid production in the stomach) should not be prescribed in combination with Clopidogrel (an antiplatelet agent that stops platelets sticking together), due Omeprazole or Esomeprazole reducing the effectiveness of Clopidogrel, potentially increasing the risk of transient ischaemic attacks (TIA), strokes and heart attacks. Her searches identified 5 patients who had been prescribed this combination of medicines in the last 6 months and she found

serious concerns about mis prescribing and a lack of review and explanation of risks.

20. In addition she explained that her search identified 8 patients with a potential missed diagnosis of diabetes. There was evidence of a lack of coding diagnoses in these patients' computer records and not informing them that they had diabetes.

21. The witness also explained that the National Institute for Health and Care Excellence (NICE) recommends that patients over the age of 65 years who are prescribed non-steroidal anti-inflammatory medicines (NSAIDs) and patients over the age of 75 years who are prescribed antiplatelet medicines are prescribed a proton pump inhibitor (PPI) to reduce the risk of gastrointestinal bleeding and haemorrhage from oesophageal, gastric, or duodenal ulceration. However her searches identified that 44 patients in these age categories were prescribed these medicines, but 22 patients were not receiving PPI protection as recommended.

22. Moreover she explained that medication reviews should be conducted at least annually but for patients over the age of 75yrs, those with complex needs and those on 4 or more medications it is recommended that medication reviews are done more frequently. However, during her review of patient records in relation to the clinical searches she identified a number of issues relating to medication reviews including Staff Member 4, the healthcare assistant [HCA], was coding medication reviews, but an HCA does not have the knowledge, skills or competency to do these reviews as they are not prescribers and have not done appropriate training. In addition medication reviews were being coded as completed without any evidence of an effective medication review being done, especially as monitoring was often out of date, prescriptions were being given contrary to MHRA advice and long-term conditions were not being identified. Medication reviews were also being coded late at night when patient contact would not have taken place.

23. Dr. Hall also gave evidence about how Staff Member 4, the HCA, was working beyond the scope of her competency. She identified that Staff Member 4 was performing long-term condition reviews for diabetes and hypertension, coding that she had done medication reviews when she was not a prescriber, giving erroneous information to patients regarding the results of blood tests and not seeking further review or advice from a GP when blood pressure readings were raised. This put patients at risk as she did not have the necessary knowledge, skills or qualifications to identify when further action was needed, give the appropriate clinical advice to patients, perform an effective medication review, accurately recognise abnormal clinical findings and seek further advice when required.

24. In addition Dr. Hall identified other serious concerns relating to the management of exacerbation of asthma, chronic kidney disease, patients with poorly controlled diabetes, and safeguarding pathology results document management. Overall her opinion was that "the wide-ranging

issues identified by the clinical searches suggested significant failings in clinical governance and oversight at the practice. There should be systems and processes embedded to ensure timely recall of patients, monitoring is undertaken when required, prescribing is in line with national guidance, safety alerts are actioned, long term condition management is carried out and clinicians have appropriate oversight and supervision to ensure they are providing safe, effective care and not working outside their competencies. The results of the clinical searches demonstrated that this was not happening consistently." In addition, "the safeguarding register was not up to date as it contained people in their twenties and thirties, and it was not clear why some patients were on the list…..Staff Member 10 admitted the register was not up to date."

25. Dr. Hall explained that following the above inspection the Appellant did supply some documentation which she listed in her witness statement. However she stated, "We reviewed and discussed the evidence submitted by the Appellant and concluded that this was not sufficient to reduce the risk from 'extreme'. I informed the meeting that as a clinician, I considered that the Section 30 threshold had been met, and urgent cancellation should be considered, as I did not believe the Appellant had the necessary skills to make the required changes, as these problems had been ongoing for some time. We were concerned that there was no clarity about action that had been taken in relation to reducing the risk for patients identified in the Letter of Intent, and this needed confirming."

26. Moreover, she explained, "I logged into the EMIS clinical system on 17 January 2024 and reviewed the patients of concern. I identified that no action had been taken in relation to the majority of patients identified as high risk in the enforcement letter as they continued to be prescribed medicines at dosages that could result in harm and in combinations that caused a risk to patient safety. Patients had not been invited to attend for follow up blood tests and the workflow still showed 906 documents were awaiting processing, of which 367 were awaiting coding and dated back to 13 October 2014, and 467 were awaiting filing and dated back to 17 January 2020. There remained 563 outstanding medicine management tasks dating back to 7 April 2020. The pathology laboratory results back log had been cleared to zero, but it was not clear whether these had been actioned safely or just deleted. This caused me additional concern as the information provided by the Appellant in his response to the Letter of Intent suggested that his wife, the non-clinical practice manager, had been responsible for resolving this issue……There was no evidence to demonstrate risk had been reduced for most of the patients where significant concerns had been raised, as many clinical records did not show any patient contact or that a review had taken place."

27. She also said in oral evidence that the documents the Appellant submitted were inadequate and she was surprised that he had not examined the records of the patients identified as a cause for concern. The CQC expected him to provide a detailed plan and protocols of how he proposed to meet the required standards. No such documentary evidence has been provided.

She was of the opinion that he did not understand the seriousness of the concerns raised by the CQC and had no insight into the risks to patients.

28. The evidence indicates that on 17 January 2024 the CQC issued a NoD urgently suspending the Appellant's registration for 6 months. In response, on 12 February 2024 the Appellant lodged an appeal.

Meeting with the Appellant on 29 February 2024

29. Shanaz Munim gave evidence that "A meeting was arranged by Gemma Jackson (geographical area Operations Manager) at the request of Dr Simon as he wished to discuss with us his 'future plans' including queries about his CQC registration." She stated that "It was explained to him that regardless of what was discussed in the meeting, this would not impact on any formal matters within the tribunal system. In addition, it was also explained that as he was registered as an individual he would not be able to add partners to his CQC registration. In order for this to take place, he would need to cancel his individual provider registration and a new application with partners would need to be submitted simultaneously. This would be reviewed by the Sale or Transfer Team at the CQC, and there may be circumstances in which these applications could be prioritised." She denied the claim that any promises were made about him being able to simultaneously cancel his registration and add partners to his registration. That was not allowed by the legislation.

30. She also made it clear that "The CQC suspension did not and does not prevent Dr Simon from entering the practice building. My understanding is that the ICB had no objections to or had in any way prevented Dr Simon from entering the practice. The ICB had put in place a proposal to ensure Dr Simon's access to the practice was done with minimum disruption to patients and staff. The ICB had reiterated to Dr Simon that in line with the CQC suspension of his registration he was not able to deliver any regulated activities which was responsibility of the caretaker practice." In cross examination she explained that the decision making process had not been influenced in any way by Tim Sacks of the ICB

31. On 29 February 2024 the Appellant withdrew his appeal. On 14 March 2024 the CQC issued the NoP to cancel the Appellant's registration as a Provider. On 3 May 2024 the NoD to cancel Appellant's registration as a Provider was issued. In April/May 2024 the GMC suspension was lifted. On 29 May 2024 the Appellant lodged an appeal against the NoD to cancel registration.

The 11 July 2024 announced remote assessment

32. On 11 July 2024 there was an announced remote assessment to review the suspension in relation to the aforementioned breaches of the Regulations. This was conducted by Dr. Zishan Syed and Yvette Delaney. They gave testimony that they discovered evidence of the following additional and ongoing breaches of the Regulations [as set out in the Scott Schedule]:

33. **Regulation 17 Good governance**

a. Unqualified individuals are responsible for work that require delegation to persons who are clinically trained, without adequate oversight
b. No clinical oversight of clinical governance
c. Failure to acknowledge and address staff members working outside their competency
d. Lack of insight demonstrated by the Appellant in respect of necessary changes to ensure appropriate and effective governance and clinical oversight
e. Lack of auditing in respect of medicine safety alerts
f. Lack of published policy or procedure to deal with workflow review

34. **Regulation 12 - Safe care and treatment**
a. Insufficient monitoring of DMARDs prior to issue.
b. Failure to demonstrate adequate medication reviews.
c. Conducting audits and assessment of issues was the responsibility of a non-clinician with inadequate oversight/supervision.
d. Insufficiently regular reviews of test results
e. Patients administered vaccinations and medicines without the appropriate legal framework in place
f. Failure to train staff and/or complete audits to address issues with management of long term conditions.

35. **Regulation 13 - Safeguarding service users from abuse and improper treatment**
a. Lack of clinical oversight in reviewing safeguarding policies

36. Dr Syed concluded that the "current measures and responses appear insufficient to ensure patient safety and proper management of long-term conditions". In oral evidence he went through his findings in detail under the following headings:
a. Lack of Oversight for Long-Term Conditions – "My concern is we have an unqualified individual [Staff member 10 (Practice Manager)] to substitute the role of a Clinician. This potentially puts patients at risk as an unqualified individual could miss safeguarding risks and clinically relevant risks from MHRA alerts due to their lack of clinical knowledge. Staff member 10 also reviews MHRA reports."
b. New Process for Monitoring Disease Modifying Anti-Rheumatic Drugs (DMARDs) – "I concluded there was insufficient evidence that there was sufficient monitoring of DMARDs prior to being issued and I noted that Dr Simon repeatedly referred to an annual health check during questioning."
c. Clinical Governance – "The main concern is that CQC is not assured of who has clinical governance of this surgery"
d. Concerns Regarding Health Care Assistant's (HCA) Workload – "Following the findings presented in Janet Hall's Report dated January 2024, the HCA was determined to be working over capacity unsupervised adequately by a GP. The HCA was giving clinical injections without Patient Specific Directions ('PSD'), the HCA was conducting diabetes reviews and hypertension reviews at the surgery which is not appropriate. During the inspection, the above concern was put to Dr Sacha Simon and

the Practice Manager, however, they both refuted suggestions that the HCA is working outside of their job description. The HCA did not have the relevant competencies to be conducting the work as demonstrating in the inspection of January 2024. This is further evidenced by clinical records showing she was conducting medication reviews. However, she is not a prescriber and therefore should not be conducting medication reviews.

37. Dr. Syed concluded his inspection by stating that "The Practice must urgently address the concerns highlighted from the January 2024 inspection as well as the concerns presented to the Appellant during 11 July inspection; this includes a detailed and actionable plan…There also needs to be current measures in place as the Appellant's responses to the concerns raised by the CQC appear insufficient to ensure patient safety and proper management of chronic disease."

38. Yvette Delaney corroborated what Dr. Syed said and outlined the multiple failings discovered as well as the failure to deal with the concerns identified in the inspection of January 2024. She explained the following: "Opportunities were given for the Appellant to deliver and present to us a formal plan of improvement that showed an understanding of the concerns identified and risks to patients that the concerns presented. There was hope that the Appellant would by way of a presentation demonstrate compliance with the regulations and associated concerns. A presentation that showed that a full review and analysis of the concerns had taken place, which included accountability, would have been useful to demonstrate ownership and an understanding of the concerns. This would have also supported the Appellant to provide informed, formal and current improvement plans identified clear processes and changes to be introduced in order to prioritise the actions needed to mitigate the level of risk identified. The overall outcome of the assessment undertaken in July 2024 did not provide us with assurances that the mitigation of risk and sustainability would be maintained to ensure safe practice in the care and treatment of patients…"

39. Dr. Hall explained that an enforcement decision tree was produced following the assessment on 11 July 2024 which documented that the Appellant had been given the opportunity to provide further information about actions he proposed to take and how he intended to mitigate the risks identified. However, on 12 July 2024, the Appellant had threatened not to provide the information requested, unless certain demands he had made to the ICB were met. According to Dr. Hall "This was a wholly inappropriate response, as the opportunity afforded to him to provide additional evidence had been given for his best interests. The Appellant eventually submitted the additional information and documents on 15 July 2024 as requested."

40. Dr. Hall gave a detailed account in her witness statement of her analysis of these documents submitted. Her opinion about the additional information submitted by the Appellant was as follow: "Much of the evidence the Appellant had submitted was irrelevant, repetitive and based on out of-date information. Protocols, policies and procedures still needed to be developed

in many areas. The information reiterated what we had already been told following the previous inspection without demonstrating any insight into the changes needed to develop and improve systems, protocols and policies to safeguard patients. There was a reliance on the same private provider to oversee governance at the practice who had been in place at the time of the inspection when significant failings in governance and oversight of the practice had been identified. There continued to be inappropriate allocation of duties to staff who did not have the required knowledge, experience or competencies to undertake them safely."

41. On 18 July 2024 there was a NoD to extend suspension of Appellant's registration to 18 January 2025. The NHSE imposed conditions on the Appellant's inclusion on the GP Performer's list. A letter from the NHSE dated 5 August 2024 states the following:

1. You have been out of clinical practice for an extended period and conditions would support you to safely return to patient facing clinical work.
2. NHS England (Midlands) considers that concerns identified through the records review in September 2020 remain unremedied and therefore some further clinical assurance is required.
3. In accordance with the Framework for Managing Performer Concerns, it is in the public interest for you to be conditionally included on the Medical Performers List and also necessary for the purpose of preventing any prejudice to the efficiency of services.

The conditions agreed by the PLDP, which take immediate effect are:
1. You must be closely supervised, as described in the GMC Glossary for Undertakings and Conditions (GMC Undertakings bank (gmc-uk.org)) in all your NHS GP clinical posts (which require inclusion to the Medical Performers List), by a Clinical Supervisor.
a. The Clinical Supervisor must be approved by the Responsible Officer or nominated deputy, prior to undertaking any clinical NHS GP work.
b. This close supervision must be in place for a minimum period of 50 patient facing clinical sessions after return to clinical practice.
c. Your supervisor must share reports with NHS England after 25 and 50 patient facing clinical sessions have been completed.
d. The level of supervision will be reviewed by the Responsible Officer (or nominated deputy) after 50 patient facing clinical sessions have been completed and should supervision report evidence demonstrate positive progress and no adverse information, this will be reduced to 'supervised'.
e. The period of supervision will continue until further review by the PLDP

2. You must engage with an Educational Supervisor, approved by the Responsible Officer or nominated deputy to develop an Enhanced Personal Development Plan (EPDP) within three months of a return to clinical practice.
a. This should be agreed with the Educational Supervisor and shared with the Responsible Officer within 7 calendar days of agreement.

3. After three months of returning to clinical practice, a records audit of 20 patient records will be completed by an independent records reviewer, arranged by NHS England.
a. You should reflect on the fundings and provide your written reflections to NHS England within 4 weeks of date of receipt of the findings.

4. You must only work in a group practice setting where there are a minimum of two GP partners or employed GPs (excluding yourself). The GPs must be partners or permanently employed GPs who are on the GP register. This excludes locum staff.

5. You must not undertake locum or out of hours placements.

6. You must personally ensure that NHS England is notified of the following information within seven calendar days:
a. of any post you accept, before starting it
b. of any formal disciplinary proceedings started against you by your employer and/or contracting body within seven calendar days of being formally notified of such proceedings.
c. of any serious incidents or complaints that you are involved in, within seven calendar days of being formally notified of such proceedings
d. if in any posts, your practising privileges or admitting rights have been suspended or terminated by your employer or contracting body before the agreed date, within seven calendar days of being notified of the termination
e. if you apply for a post outside the UK

7. You must personally ensure that your immediate line manager and a senior clinician (where there is one) are notified of these conditions at least 24 hours before starting work at:
a. Your place(s) of work, and any prospective place of work (at the time of application)
b. all current contracting bodies and any prospective contracting body (prior to entering a contract)

c. any organisation where you have, or have applied for, practising privileges and/or admitting rights (at the time of application)

42. The 13 December 2024 Assessment Interview

43. On 13 December 2024 the CQC undertook an announced remote assessment interview to review the suspension and the breaches of the Regulations. Amongst those attending was Yvette Delaney, Dr. Syed and the Appellant. According to Yvette Delaney's oral evidence the Appellant gave verbal undertakings as to what he planned to do to put the situation right but did not produce any documentary evidence to support what he said. It was agreed that there would be a deadline of 10am on 18 December 2024 for the Appellant to produce documentation in support of his request for the suspension to be lifted including an action plan. No such documentation has been provided.

44. In cross examination Yvette Delaney and Dr. Syed explained that the deadline had been extended because the Appellant had been hospitalised. Yvette Delaney denied the allegation that she and others in the CQC had been influenced or pressurised by Tim Sacks in any decisions they had made.

45. In cross examination Dr. Syed was shown a memo supposedly kept of the 13 December 2024 meeting but he denied it was accurate noting that person who made it was not in the meeting for most of its duration.

46. On 16 January 2025 the CQC issued a NoD to extend the suspension of the Appellant's registration to 18 April 2025. The appeal against the NoD was lodged on 10 February 2025.

The CQC Decisions

47. Dr. Hall summed up the CQC's continuing concerns about the Appellant and why the cancellation continued to be appropriate as follows: "In conclusion, there is a lack of insight by the Appellant into the scale of the problems we identified during the inspection. It is not clear that he understands why and how things need to change to protect patients and ensure they receive safe and effective care and treatment in future. I am not assured that the Appellant and his team have the necessary clinical and managerial leadership skills that will be required to address all the problems and mitigate the risks identified. In addition, the Appellant's reluctance to accept that some of the failings were due to their systems and processes not working effectively and his intention to keep using them without additional safety precautions to strengthen the governance is a concern."

"There is a lack of detail provided about what has been done so far to address the shortcomings and risks identified at inspection, and how and what ongoing changes will be made. There is a presumption that continuing to employ the same private company (Humanitas Healthcare) to oversee governance and continuing to use the same procedures and systems without understanding why, how and where they failed, such that they were

found to be ineffective at the inspection, will be sufficient to allow us to lift the suspension."

"The lack of clinical oversight proposed for many of the tasks which require at least some clinical understanding and input is also worrying, as is the insistence that Staff Member 4, the HCA, was not working beyond her competency despite evidence to the contrary. Due to the serious nature and wide ranging concerns that had the potential to cause serious harm to patients, together with the lack of relevant and up to date evidence to demonstrate that robust systems and processes have been implemented to provide assurance that the identified risks have been mitigated, I consider that the enforcement action taken by CQC has been both reasonable and proportionate. All of the evidence submitted by the Appellant has been thoroughly reviewed and carefully considered by CQC at every stage in determining what action should be taken…..The newly proposed conditions on the Appellant's performers list registration will restrict his clinical practice and negatively impact on his ability to provide strong clinical leadership, effective oversight and good governance."

48. The Panel also heard evidence from, Amanda Lyndon, Deputy Director at the Care Quality Commission (CQC) who was the ultimate decision maker in this case. She explained that the decision making process had not been influenced in any way by Tim Sacks of the ICB. She explained the following in her witness statement: "The Appellant has had ample opportunity to provide evidence of improvements made. However, significant shortfalls remain and CQC are not assured improvements will be made or sustained. The areas of concern identified within the Notice of Proposal had not been actioned. The Appellant's service has been re-inspected since it was placed in Special Measures in January 2024. Continued breaches of Regulations remain which would place patients at risk of unsafe care and treatment should the Appellant carry on the Regulated Activities. This continued lack of oversight, poor leadership and drive to improve the service demonstrated that the Appellant had failed to act on or recognise the seriousness of the concerns CQC found during the inspections. The Appellant's own systems and processes had failed to identify concerns and therefore drive change. In light of the above evidence, my view as Deputy Director remains that CQC's Decision to cancel the Appellant's registration is reasonable and proportionate and should be upheld."

49. In oral evidence she stated that as at the date of the hearing the CQC had not received adequate documentary evidence from the Appellant dealing with the concerns outlined. She also said that it was concerning that the Appellant had not informed the CQC in a timely manner of the details of his suspension by the NHSE and the conditions imposed by them upon him.

<u>The ICB Evidence</u>

50. Tim Sacks adopted his witness statement that explained: "I am the Director of Primary Care at the ICB. I have been in post since November 2022. My responsibilities include all elements of contract management, performance, development and transformation for General Practice, Pharmacy,

Optometry and Dental contract holders within the Coventry and Warwickshire Geography." He also explained that "following the CQC's urgent suspension for 6 months on the 12th January 2024…to continue healthcare for the registered population an emergency health care provider was commissioned to provide care to the patients of Whitestone Surgery, whilst a procurement process took place to appoint a longer term service provider…… The Practice list and all of the regulated activities would be taken on by a caretaker practice throughout the suspension…"

51. He also explained: "Access to the premises was discussed. It was agreed that Dr Simon could enter the practice as the property owner. It was requested that if he wished to access the premises, as courtesy to the caretaker, that he should inform them in advance and to not be involved or engaged with the patients or staff when on the premises.."

52. He also explained that the "Caretaker immediately undertook a review of all of the actions from the CQC report which were managed within three weeks. Due to the nature of the findings in the CQC report, the ICB decided to commission a notes audit of the 2400 patients registered with the Whitestone Surgery by the caretaker organisation CRGPA. The aim of this was to ensure that all patients had an appropriate treatment plan. The initial report evidenced 68 occurrences where the clinical reviewers considered the actions of the previous clinical team at Whitestone Surgery had led to harm to the patient. It was decided by the Deputy Medical Director from the ICB, that it would be beneficial to gain a second opinion on all cases, using the national definitions of harm. Based on this, the original 68 patients were re-reviewed by the CRGPA Medical Director which further reduced this number to 25 patients who were considered to be most likely to represent evidence of harm. These 25 patients were then reviewed by a very experienced and senior GP from outside of the CW ICB Geography. The detailed report is evidenced in Exhibit TS05. This illustrates examples of actual and potential harm to several patients, some of whom are judged to have been severely harmed either by lack of treatment or missed diagnosis."

53. He added that "there are several examples of patients being severely harmed by the lack of action by the practice and there are multiple themes of unsatisfactory process, procedure and clinical practice."

54. He also stated the following: "If Dr Simon's registration is cancelled, as a single handed practitioner on the GMS contract, the contract would be terminated. There are then two options open to the ICB to ensure continued care for the patients of Whitestone Surgery. OPTION 1: Local practices would be asked if they would want to take on the registered list and building of Whitestone surgery and deliver services as a branch of their own GMS GP contract. If there were appropriate and local practices, then this is an option subject to the building being sold to a chosen provider or the building leased to them by Dr Simon. This has its complexities. OPTION 2: If Option 1 was not viable then the caretaker would be asked to remain delivering care for a period of three-six months whilst the registered patients of Whitestone surgery were consulted and involved in a dispersal process,

whereby they could register with any local GP surgery to receive their primary health care."

55. In oral evidence he explained that throughout his suspension in order to answer the CQC concerns the Appellant had unrestricted remote access to the surgery's patient records via the EMIS system as did his staff including his wife. In addition the Appellant also had conditional physical access to the premises with the consent of the Caretaker staff. He was asked about a letter submitted into evidence by the Appellant from the Caretaker's solicitors dated 11 September 2024 address to the Appellant and his wife. This stated the following: "*We are instructed that you both attended the Premises on Monday 2 September 2024, and that Dr Simon was verbally aggressive and intimidating to the Caretaker's staff, threatening to evict the staff with immediate effect and to take back possession of the Premises……Neither our client, nor the Caretaker, has any wish to engage in further dispute with you. However, given the above, on behalf of the ICB acting at the Caretaker's request, we confirm that you should not attend the Premises again without the prior written consent of the Caretaker. Should you wish to attend the Premises and/or speak with a member of staff then this must be outside of surgery opening times and only with the prior written consent of the Caretaker, at such dates and times as it agrees. For the avoidance of any doubt, the Caretaker has confirmed that you do not have the Caretaker's consent to attend and enter the Premises on Mondays, or any other day, until further notice, unless specifically agreed in writing. Any attempt to enter the Premises without the Caretaker's consent and / or to unlawfully evict the Caretaker may result in court action being taken against you."*

56. Mr. Sacks explained he had no personal knowledge of the alleged incident and had no part in the decisions of the Caretaker or their lawyers. He reiterated that the Appellant retained remote access to patient files and could enter the premises upon giving notice.

57. He also explained that the Caretakers had dismissed SM2 because of a lack of a DBS check and because she was working beyond her competencies. He also explained in detail the findings of the "Harm Review" and the multiple serious concerns raised about the treatment of patients at the surgery in the past.

58. In cross examination he said that he had joined the ICB in November 2022 and had no knowledge of any alleged history of "bad blood" between the ICB and the Appellant. He denied the allegation that he had a hostile attitude towards the Appellant or that he targeted him because he thought he was "trouble" or "one to watch". He knew nothing about the Appellant's claim that in the past he had been a "whistleblower.

59. He also denied attempting to influence the decision making process of the CQC. He also denied that he had treated the Appellant unfairly or that the Appellant's racial or ethnic background played any part in his own actions. He denied that he or the ICB was racist. The Appellant's counsel put the

following allegation to Mr. Sacks: “You masqueraded that this was about patient care, but really it’s all about stopping Dr. Simon”. Mr. Sacks denied this was true.

Evidence called on behalf of the Appellant

60. **Dr. Sacha Simon** gave oral evidence and adopted his various witness statements. A striking aspect of his testimony was how often he changed his account in oral evidence from what he had previously indicated was his position in his original grounds of appeal, his Scott Schedule, his witness statements, his amended grounds of appeal (submitted halfway through the hearing and signed by the Appellant on 26/02/25 as being a true account) and the case put to the CQC witnesses in cross examination by his counsel. The following is a summary of the Appellant’s evidence:

Allegations of breaches of the Regulations discovered by the CQC during the inspections

61. In his original grounds of appeal he stated: *“The Respondent’s inspection report is factually incorrect in particular regarding practice staff and internal governance systems. i.e. there are false allegations of the Healthcare Assistant’s competency”.*

62. The Scott Schedule contained the entire list of allegations of breaches of the Regulations discovered by the CQC during the inspections as outlined above. In his response to the list the Appellant indicated that he denied all of the CQC allegations. Moreover his witness statements contained copious material which appeared to attempt to refute the findings of the CQC.

63. However in oral evidence he stated that he did not dispute that the CQC findings were accurate and true and that all of the breaches were made out. He also did not dispute that the Health Care Assistant was acting beyond her training and capacity. In oral evidence he said that “I did not oppose the findings of the CQC assessments”. He also said that “I accept all the concerns about the HCA raised by the CQC”. He was asked whether he accepted there were inadequate protocols in place for the HCA and he replied, “I’m not sure. We are re-writing it.” He added, “We are working on protocols now. I don’t know if they have been submitted or not.” He was then asked whether he had submitted any revised protocols to the CQC and he said, “no”. In re-examination he was asked why he had not submitted the requested protocols to the CQC and he replied, “We have regular meetings with staff. They are doing the protocols. I don’t know where they are.”

64. He said that he had made a mistake in the Scott Schedule. He meant to admit that all of the breaches had occurred but his appeal was based on his undertakings to ensure that everything was put right and that the necessary standards would be met in the future. He said that he was still in the process of developing the necessary protocols and procedures and that when they were ready he would submit documentary evidence to the CQC. He also said that “the loose governance would have been sorted out at meetings of staff.”

65. However he also said in oral evidence "Clinicians should not be doing administrative roles. They should only oversee. The CQC is wrong to insist that clinicians do the work on the computer doing checks. I don't want clinicians doing this." He also said the CQC "see me as a maverick." He also said that in relation to the CQC requirements: "I don't like being taken away from clinical work. I will reluctantly do this. I will do everything needed but it's a lot of admin' to do." In relation to the findings made by the CQC in relation to monitoring and management of specific medications identified, he said "I don't know why it's not good enough. I genuinely don't understand why the CQC have a problem."

Allegations of Bias and Bad Faith against CQC and ICB

66. In his original grounds of appeal he stated: *"There has been a collusion with Coventry and Warwickshire ICB and/or the General Medical council*" – This was extended in the revised grounds of appeal as follows: *"The Appellant believes the CQC's Decision was swayed by the input of one Mr Tim Sacks of the ICB, the successor of the Coventry and Warwickshire Integrated Care Board ('CWICB'), with whom he had had difficulties over the years."* The new grounds of appeal stated: "The CWIB vehemently opposed his proposals for a plan to build a £15 million Integrated Facility." - In oral evidence the Appellant could only state that he had a general suspicion that the ICB must have made the anonymous allegation to the GMC otherwise it would be "too much of a coincidence". In addition he could not explain how the CWIB had stopped him building his Integrated Facility" and also he said that he did not know that the CQC had been influenced by Tim Sacks and that he (the Appellant) liked Tim Sacks "more that he can know".

67. In his original grounds of appeal he stated: *"The Respondent irresponsibly pursued a decision to cancel the Appellant's registration that will knowingly put the practice building into bank foreclosure and dissolve the patient list"* - In oral evidence the Appellant did not pursue this allegation. In fact he said that on reflection he did not think that the CQC had acted wrongly or with bias. In addition he was unable to explain why the CQC's decision if upheld would result in the practice building being forfeited. He did produce a single letter from the bank but it did not state that the building would be seized.

68. In oral evidence he said that he genuinely believed the ICB was biased against him and had influenced the decision of the CQC, but he could not explain how or why such influence had been brought to bear on the CQC. He also said that he welcomed the CQC investigation and that they were just "doing their job" and "no one had done anything wrong."

Access to Patient Data and ability to provide evidence of planned improvements

69. In his original grounds of appeal he stated: *"No access to premises: by excluding the Appellant from any access to the surgery, the practice team, computer systems and patient population, the Respondent has not given the Appellant any opportunity to address the failings they identified in their inspection report."* In his witness statement he said "I endeavour to demonstrate my continued intention to comply with the Regulations despite

being unable to undertake any Regulated Activities because of my continued CQC suspension. This ongoing restriction impedes my ability to provide evidence demonstrating policies and procedures in action at the Practice."

70. In oral evidence the Appellant said that he chose not to access the EMIS system because he feared that to do so would jeopardise his position. He said that he had been advised by his lawyers that "if I did anything with my NHSE card to log onto the system as a GP or clinician it would cause difficulties with the GMC and the NHSE". However later he said that he could see patient records via other staff including his wife. In cross examination he said that he had never logged on remotely to review the patient records highlighted by the CQC as causing them concern.

71. He claimed that he had told Dr. Hall about his fears of logging onto the system. This claim was never put to Dr. Hall in her cross examination and there was no reference to such a conversation in her evidence. Later in oral evidence the Appellant said that he had never asked the CQC about an alternative way to log on. It was pointed out to him that he could log on as an administrator which would not cause a problem. He said he was not aware of that option. He was asked whether he was aware of the various webinars and other resources provided by the CQC to help providers understand the regulatory system (including a provider's platform) and he said he was unaware of such things.

The 29 February 2024 Meeting

72. In his original grounds of appeal he stated: *"Verbal agreement breached. The Respondent went back on an agreement on an Microsoft Teams call on 29 February 2024 for the Appellant to simultaneously cancel his registration at the same time as transferring the partnership to two highly qualified GP partners to maintain a primary care presence in the region*." In oral evidence the Appellant stated that as a result of the meeting he genuinely thought that he had entered into an agreement with the CQC to allow him to cancel his registration and simultaneously put 2 other GPs onto it. He explained, "I'm a simple GP. The CQC vocabulary is not normal to me." He also said "I am a simple GP entering into this world of regulation. I didn't understand."

73. He was asked about his understanding of the requirements of registration with the CQC and its processes. He said that he was "a simple GP" who was not very good at the administrative side of things. He said that he still had no idea what the difference was between the NOP and NOD. He also still had no idea what the difference was between him being the Nominated Individual and the Registered Provider under the CQC Regulations. He also said "As a GP I couldn't be expected to know it. It was not at the top of my working knowledge." He also accepted that he failed to submit any new documentation after this meeting

NHSE Conditions

74. In his amended grounds of appeal the Appellant stated that "Appellant copy

and pastes conditions from the letter of 05/08/2024 to CQC Solicitior. However, in oral evidence he said that he sent a copy of the NHSE conditions to the CQC immediately he had received them on 09/01/2025 by cutting and pasting them into an email .

75. In cross examination he was shown an email from the CQC dated December 2024 requesting he send them the NHSE conditions. He did not email back. He was shown another email from the CQC dated 14/01/25 requesting he send them the NHSE conditions. He did not email them back. He was shown another email from the CQC dated 24/01/25 requesting he send them the NHSE conditions.

76. He finally replied in an email dated 27/01/25 in which he purported to include the NHS conditions. However he accepted in cross examination that the purported conditions he included in the email of 27/01/25 were substantially different from the actual conditions set out in the NHSE letter to him dated 05/08/2024. He said that he had merely cut and pasted the conditions from the letter dated 05/08/24 into the email of 27/01/25. However he could give no coherent explanation as to how the action of cutting and pasting had resulted in two radically different sets of conditions. In addition he was not able to give a coherent explanation as to why there was the long delay between receiving the letter containing the conditions on 05/08/24 and finally sending them (actually a different version of them) to the CQC on 27/01/25.

77. He was asked about his progress in meeting the requirements of the NHSE conditions. He said that he had 15 of the 50 patient facing clinical sessions required. Then he would face further reviews. He was not able to give a timetable as to when he would be able to meet all of the conditions and be in a position to return to practice as a GP.

Other Matters

78. In oral evidence the Appellant stated that he was very sorry about what had happened and how standards had slipped in the surgery. He explained why he had left the PCN having complained about corruption. He was sure it was because of this that an anonymous complaint had been made to the GMC. He described the allegations made against him to the GMC as “outlandish”. He had never provided the CQC with any documentary evidence about the GMC proceedings. He said that he welcomed the CQC inspections and used their findings as “learning opportunities.” He also said that the whole process was “ridiculously stressful” and that their “relentless scrutiny would not stop.”

79. He also gave details about his multi-million pound plan to develop and integrated care facility in the area in 2020 which he believed had been thwarted by the machinations of the ICB. He believed that was why the ICB was biased against him. He said that he had no idea if the CQC had knowledge of this plan.

80. He said that he had followed innovative practices in relation to mental

health. Instead of prescribing medication he would recommend mindfulness and the reading particular books. He was unable to identify the names of the books he recommended, In cross examination the findings as recorded in Mr. Sacks's witness statement were put to the Appellant. The findings read as follows: *"For any mental health condition patients would be advised to read "Inside out Revolution", "Energy/consciousness/thoughts" and "Stimulus/response curve" and "Living in the moment timeline", no mention of NHS resources such as IAPT, CBT, Talking therapies nor referrals to mental health. Example of 25- year-old male attempted hanging and advised to read these books with no CRISIS referral, signposting and review. Patient with documented A+E attendance with overdose not invited for review. A patient with psychosis also told to read these books with no other care."* The Appellant stated that he had never reviewed the clinical notes referred to but agreed that on the face of it this created a clinical concern. Various other examples of bad clinical practice were put to him and the Appellant's responses were the same in that he had never reviewed the clinical notes referred to but agreed that on the face of it there was below standard practice and they created clinical concern

81. He also said that he had never used abusive or threatening language to the Caretaker staff at the surgery but he did describe the ICB locums as being "mercenaries."

82. **Dr. Oludayo Olomolaiye** (a GP in the surgery) also gave evidence and said that he had attended the 13 December 2024 Assessment Interview and had the impression that the CQC were happy with the progress made. He did however admit that he had no knowledge of the CQC decision making process and that the Appellant had promised to deliver documentary evidence of his plans which at the meeting he had only referred to verbally.

83. The Panel also read a witness statement from **Jane Beattie**, Senior Practice Nurse of Whitestone Surgery who said that she had attended the 13 December 2024 Assessment Interview and was of the opinion that it had gone well and had a positive outcome.

84. In addition the Panel read a witness statement from **Georgina Halford-Hall**, (CEO Whistleblowers UK) who gave her opinion that the Appellant had been treated unfairly and that she thought he had been a "whistleblower" in the past. [NB – In oral evidence the Appellant said, "I didn't see myself as a Whistleblower"] She also stated, "I am not in any way qualified to comment on the Appellant's clinical decision making, his patient communication skills or ethics or the statutory systems and procedures of the Respondent."

Submissions

85. The Tribunal read the skeleton arguments prepared on behalf of the Respondent and Appellant and heard oral arguments. Both representatives adopted their skeleton arguments and developed their contents in oral submissions which it is not necessary to repeat here.

Legal Framework

86. Section 3 of the Health and Social Care Act 2008 (the 2008 Act) sets out that the Respondent's overriding objective is: to protect and promote the health, safety and welfare of people who use health and social care services. There is no dispute that the Appellant is registered as a Provider of health services.

87. Section 17(1)(c) of the 2008 Act sets out the Respondent's power to cancel the registration of a Provider: The Commission may at any time cancel the registration of a person ("R") under this Chapter as a service provider or manager in respect of a regulated activity – (c) on the ground that the regulated activity is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements.

88. Section 17 (1)(e) of the 2008 Act allows the Respondent to cancel the Appellant's registration as a Provider where the Respondent is not satisfied that a service provided would be compliant with the Regulations pursuant Section 20 of the Act. The relevant regulations are the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations).

89. In such an appeal the Respondent must prove on the balance of probabilities the facts and matters it relies upon to justify cancellation. It must also demonstrate that the decision to cancel the Appellant's registration is proportionate and necessary. On appeal, the Tribunal is considering matters afresh. The powers of the Tribunal can be found in section 32 of the 2008 Act. Essentially the Tribunal may either confirm the Respondent's decision to cancel or direct that it shall not have effect or impose conditions.

Conclusion

90. For reasons given below the Tribunal concludes that the Respondent has proved on the balance of probabilities that cancellation of the Appellant's registration was entirely lawful and necessary because the regulated activity was being carried on otherwise than in accordance with the relevant requirements. Those requirements being the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations).

91. The Tribunal is satisfied after considering the evidence as a whole that the multiple breaches of the 2014 Regulations identified by the CQC in the various inspections and assessments set out above were all true and accurate. They disclosed a systemic pattern of serious failings in patient care and clinical governance that put patients at risk of harm.

92. In addition the Panel is satisfied that the CQC inspectors who gave evidence before us were honest and reliable and have acted in good faith at all times. The Appellant gave inconsistent and unclear evidence about this throughout these proceedings but ended up accepting that the alleged breaches of the 2014 Regulations were all true and that the CQC had acted appropriately. In oral evidence he said that "I did not oppose the findings of the CQC assessments".

93. In addition the Panel is satisfied that the CQC inspectors and all involved in the CQC decision making process acted honesty and in good faith showing no bias against the Appellant. The Appellant gave inconsistent and unclear evidence about this throughout these proceedings but ended up accepting that there was no evidence of bad faith or bias by the CQC.

94. Moreover the Panel is satisfied that throughout his entire engagement with the CQC and this Tribunal process the Appellant has failed to provide adequate evidence of his concrete plans to put in place a system to ensure that breaches similar to those identified by the CQC would not happen again in the Whitestone Surgery or any practice for which he was responsible.

95. The Panel concludes that the appellant has never been clear to the CQC or indeed to the Panel about what action he proposed to take in relation to reducing the risk for patients. Again and again he promised to produce coherent and reliable documentary evidence of robust plans and protocols to ensure good clinical governance and patient care in the future but has never produced what he promised. The Appellant only gave verbal undertakings as to what he planned to do to put the situation right but never produced adequate documentary evidence to support what he promised.

96. The Panel (having inspected the documents submitted by the Appellant) accepts the evidence of the Dr. Hall that "Much of the evidence the Appellant had submitted was irrelevant, repetitive and based on out of-date information". The Panel agrees that protocols, policies and procedures still need to be developed in multiple areas.

97. Even as late as the last day of the hearing before the Tribunal, the Appellant was still promising to submit the necessary plans and protocols. In oral evidence he was asked whether he accepted there were inadequate protocols in place for the HCA and he replied, "I'm not sure. We are re-writing it." He added, "We are working on protocols now. I don't know if they have been submitted or not." He was then asked whether he had submitted any revised protocols to the CQC and he said, "no". In re-examination he was asked why he had not submitted the requested protocols to the CQC and he replied, "We have regular meetings with staff. They are doing the protocols. I don't know where they are."

98. The Panel concludes that despite ample opportunity to do so, the Appellant has failed to submit to the CQC or to this Tribunal any formal plan of improvement that showed an understanding of the concerns identified and the consequent risks to patients. The Panel therefore is not assured that the necessary improvements will be made or sustained.

99. Moreover, the Panel concludes that the Appellant is either unable to understand the seriousness of the concerns raised by the CQC and the risks to patients or is unwilling to acknowledge those concerns and risks. For example, in relation to the findings made by the CQC concerning monitoring

and management of specific medications, he said “I don’t know why it’s not good enough. I genuinely don’t understand why the CQC have a problem.”

100. Moreover the Panel concludes that the Appellant is either unable or unwilling to engage in a serious or meaningful way with the CQC investigation and provide adequate evidence of his ability to meet the necessary standards required by the Regulations. Even during the Tribunal hearing the Panel noted the failure by the Appellant to respond to questions with straight answers and the constantly shifting nature of his evidence and the contradictory claims and allegations against the CCQ and ICB.

101. Moreover the Panel shares the surprise of the CQC witnesses that the Appellant appears to have never examined the records of the patients identified as a cause for concern. The Panel does not accept the various excuses made by the Appellant as to why he erroneously thought he could not remotely view the patient records. Moreover the Panel concludes that he has never been stopped from physically entering the surgery as long as he gave reasonable notice. The Panel concludes that in truth, the Appellant did have unrestricted remote access to the surgery’s patient records via the EMIS system as did his staff including his wife. In addition the Panel is satisfied that the Appellant also had conditional physical access to the premises with the consent of the Caretaker staff.

102. The oral evidence of the Appellant also indicated a concerning ignorance on his part as to the functions of the CQC and his responsibilities under the regulatory scheme they operated. In oral evidence he was asked about his understanding of the requirements of registration with the CQC and its processes. He said that he was “a simple GP” who was not very good at the administrative side of things. He said that he still had no idea what the difference was between the NOP and NOD. He also still had no idea what the difference was between him being the Nominated Individual and the Registered Provider under the CQC Regulations. He also said “As a GP, I couldn’t be expected to know it. It was not at the top of my working knowledge.” He also said the CQC “see me as a maverick.”

103. In addition, he said in oral evidence “The CQC is wrong to insist that clinicians do the work on the computer doing checks. I don’t want clinicians doing this.” He also said that in relation to the CQC requirements: “I don’t like being taken away from clinical work. I will reluctantly do this. I will do everything needed but it’s a lot of admin’ to do.”

104. The Panel also concludes that the Appellant simply misunderstood what was said in the meeting of 29 February 2024 and that no “verbal agreement” was made or breached by the CQC in relation to his registration.

105. The Panel does not accept the unsubstantiated allegations at times made by the Appellant and on his behalf by his counsel of bad faith and bias by the CQC or bad faith and bias (and by implication racism) by Tim Sacks and the ICB. In the judgement of the Panel this attitude exhibited by the

Appellant and the aforementioned ignorance on his part of the functioning of the CQC indicates an unwillingness or inability to cooperate with the CQC (and ICB) going forward and provide assurances that patient safety and good clinical governance can be maintained.

106. In coming to this conclusion the Panel also takes into account the lack of transparency and straightforward dealing by the Appellant in relation to the CQC. In particular his continuing and persistent failure to provide the CQC with details of his GMC and NHSE suspensions and the NHSE conditions. His explanation as to why he delayed in submitting the NHSE conditions and how he managed accidently to "cut and paste" a completely different version of the conditions is lacking in credibility.

107. Moreover the Panel agrees with the opinion of Dr. Hall that the "conditions on the Appellant's performers list registration will restrict his clinical practice and negatively impact on his ability to provide strong clinical leadership, effective oversight and good governance." He was not able to give the Tribunal a timetable as to when he would be able to meet all of the conditions.

108. After considering the evidence in the round (including the testimony of the Appellant and his witnesses) the Tribunal concludes that the Respondent has proved on the balance of probabilities that that cancellation of the Appellant's registration was entirely lawful and necessary for the reasons given above.

109. In relation to the question of proportionality the Tribunal accepts that the Appellant's human rights are engaged in this case. The Respondent has satisfied us that that the decision taken was in accordance with the law. We are also satisfied that the decision was objectively justified and necessary in order to protect the public interest which includes the safety, wellbeing, and needs of patients, as well as the maintenance and promotion of public confidence in the system of regulation.

110. The Tribunal accepts that cancellation will have a serious impact on the Appellant's life and career and ambitions. However, we also note that the suspension of his registration has been in force for some time and we have not heard evidence that patients have been adversely affected.

111. Moreover we accept the evidence of Tim Sacks that alternative arrangements can be put in place to continue providing services to patients in the event of the Appellant's cancellation.

112. In any event we attach very significant weight to the public interest in patients being looked after in a way that is compliant with the Regulations. We consider that the public interest outweighs the interests of the Appellant and all those potentially adversely affected.

113. In light of our findings we also conclude that conditions are not appropriate. We agree with the submissions of the Respondent that the

imposition of conditions on the Appellant's registration is not appropriate bearing in mind (inter alia) the Appellant's lack of understanding of the concerns raised by the Respondent and/or his failure to recognise his role in what has gone wrong and/or his failure to address concerns raised by the Respondent around governance, and/or his ongoing failure to address the concerns summarised in the NoD.

114. In our judgement the decision to cancel registration was (and remains) lawful, reasonable, necessary and proportionate. The decision to cancel registration is confirmed. The appeal is dismissed.

Decision

The decision to cancel registration of Dr. Sacha Simon is confirmed.
The Appeal is dismissed

Tribunal Judge Timothy Thorne

First-tier Tribunal (Health Education and Social Care)

Date Issued: 12 March 2025