PUBLIC RECORD

Dates: 14/11/2022 - 23/11/2022

Medical Practitioner's name:	Dr Adeeb Yousry KAMEL
GMC reference number:	4060075
Primary medical qualification:	MB BCh 1982 Ain Shams University

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Jetinder Shergill
Lay Tribunal Member:	Mr Chris Weigh
Medical Tribunal Member:	Dr Helen McCormack

Tribunal Clerk:	Mr Andrew Ormsby

Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Ms Zoe Dawson, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts - 21/11/2022

Background

1. Dr Kamel qualified in 1982 from Ain Shams University in Cairo, Egypt.

2. From 2011, and at the time of the allegations, he had been working at Isle of Wight NHS Trust (the Trust) as an Associate Specialist in Anaesthetics and Chronic Pain Management.

3. Dr Kamel had previously worked as a Staff Grade doctor in Anaesthetics and Chronic Pain Management at Portsmouth Hospitals NHS Trust.

4. The allegation that has led to Dr Kamel's hearing relates to his conduct towards two female colleagues, Ms A and Ms B, and two female patients, Patient C and Patient D. It is alleged that his conduct was sexually motivated. It is also alleged that two of the patients were vulnerable due to a mental health condition.

5. It was alleged that Dr Kamel had inappropriately touched and engaged in sexually motivated conduct towards his colleague Ms A, XXX, on 3 September 2012 during which she was working XXX.

6. It was alleged that, whilst working at the Trust, Dr Kamel had inappropriately touched and engaged in sexually motivated conduct towards his colleague Ms B in March 2011 and on 24 September 2012, XXX.

7. It was also alleged that on, on multiple occasions, during consultations, between 23 December 2013 and 13 August 2014, Dr Kamel inappropriately touched, inappropriately communicated, and engaged in sexually motivated conduct towards Patient C, who he knew was vulnerable.

8. Further, it was alleged that, on multiple occasions between 19 May 2014 and January 2017, Dr Kamel, in consultations with Patient D, inappropriately touched, inappropriately communicated, and engaged in sexually motivated conduct towards her and that he knew that Patient D was vulnerable.

9. The initial concerns were raised with the GMC on 5 February 2015 by the Trust.

10. It was disclosed by the Trust that Dr Kamel was the subject of criminal investigations in relation to his alleged conduct towards Patient C. The Trust also disclosed in a letter to the GMC that Dr Kamel had also been subject to two prior local investigations in relation to allegations of inappropriate conduct towards colleagues, namely Ms A and Ms B.

11. In January 2016, the GMC added the complaints relating to Dr Kamel's colleagues, Ms A and Ms B to their investigation into the allegations concerning Patient C.

12. On 5 May 2017 the GMC was informed that the Trust had received a further complaint from Patient D and that this had followed on from local press coverage.

13. No further action was taken by the police or the Crown Prosecution Service in relation to the complaints.

The Outcome of Applications Made during the Facts Stage

14. Dr Kamel was neither present nor represented at the hearing. The Tribunal granted the GMC's application to proceed in Dr Kamel's absence, made pursuant to Rule 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'). The Tribunal's full decision on the application is included at Annex A.

15. The Tribunal refused an application made by the GMC, pursuant to Rule 17(6) of the Rules, to amend paragraph 17(a) of the Allegation, which referred to Schedule 1. The GMC wished to include an additional date within Schedule 1. It noted that Dr Kamel was not present nor represented at the hearing and that he had not had notice of this proposed additional date, as it had not been included in the Notice of Hearing that had been sent to him. The Tribunal concluded that the GMC 's application conflicted with Rule 17(6) as Dr Kamel had not been informed of any amendment. Further, it considered that the existing wording of the Allegation was wide enough to encompass the proposed revised evidence such that it considered that any amendment was not necessary.

The Allegation and the Doctor's Response

16. The Allegation made against Dr Kamel is as follows:

"That being registered under the Medical Act 1983 (as amended):

Ms A

1. On 3 September 2012, XXX, you inappropriately:

    a. touched Ms A, in that you:

i. grabbed Ms A's hand; To be determined

ii. kissed the back of Ms A's hand; To be determined

iii. pulled Ms A towards you; To be determined

iv. put your arm around Ms A's waist; To be determined

v. put your knees against Ms A's knees; To be determined

vi. held Ms A's hand; To be determined

vii. brushed Ms A's hair away from her face; To be determined

viii. stroked your hand down Ms A's face; To be determined

b. communicated with Ms A, in that you:

i. asked Ms A:

1. 'where do you live', or words to that effect;
To be determined

2. 'how old are you', or words to that effect;
To be determined

3. 'do you go out much', or words to that effect;
To be determined

4. on one or more occasion, whether she was single, or words to that effect; To be determined

ii. told Ms A that she was 'far too beautiful XXX, or words to that effect.
To be determined

Ms B

2. In March 2011, XXX, you inappropriately touched Ms B, in that you:

a. put your right hand on top of Ms B's left hand; To be determined

b. put your arm around Ms B's shoulders; To be determined

c. on one or more occasion:

i. put your arm around Ms B; To be determined

ii. tried to hold Ms B's hand. To be determined

3. On 24 September 2012, XXX, you inappropriately:

    a. touched Ms B, in that you:

        i. put your arm around Ms B's shoulders; To be determined

        ii. grabbed Ms B's right hand; To be determined

        iii. put your right hand on top of Ms B's left hand; To be determined

        iv. pinned your body against Ms B; To be determined

        v. stroked Ms B's leg from her knee to her hip; To be determined

    b. communicated with Ms B, in that you:

        i. said 'a nice woman like you should XXX, or words to that effect; To be determined

        ii. asked 'would you like to go for a drink', or words to that effect. To be determined

Patient C

4. On 23 December 2013 you consulted with Patient C during which you inappropriately touched Patient C, in that you:

    a. rubbed up and down Patient C's left leg; To be determined

    b. sat with your knees touching Patient C's knees. To be determined

5. Between 14 March 2014 and 28 March 2014 you consulted with Patient C during which you inappropriately touched Patient C, in that you:

    a. kissed Patient C's hand; To be determined

    b. rubbed Patient C's fingers. To be determined

6. On 30 June 2014 you consulted with Patient C during which you:

    a. inappropriately touched Patient C, in that you:

        i. grabbed Patient C's left hand; To be determined

ii. grabbed Patient C's right hand; To be determined

iii. kissed Patient C's hand; To be determined

b. sat inappropriately close to Patient C; To be determined

c. inappropriately communicated with Patient C, in that you said:

i. 'oh you have nice nails', or words to that effect;
To be determined

ii. 'oh look, they are both very nice', or words to that effect.
To be determined

7. On 13 August 2014 you consulted with Patient C during which you:

a. inappropriately touched Patient C, in that you:

i. took hold of Patient C's hands; To be determined

ii. kissed Patient C's left hand; To be determined

iii. kissed Patient C's right hand; To be determined

iv. touched Patient C's left leg from the knee to the ankle;
To be determined

v. moved your hands up and down the back of Patient C's left and right leg; To be determined

b. inappropriately communicated with Patient C, in that you:

i. said 'what lovely nails', or words to that effect; To be determined

ii. said 'what soft hands', or words to that effect; To be determined

iii. said 'you have got lovely legs', or words to that effect;
To be determined

iv. commented how soft Patient C's skin on her legs was, or words to that effect; To be determined

v. suggested to Patient C that you would 'pop round for a coffee', or words to that effect; To be determined

vi. said 'don't worry I will drink tea', or words to that effect;
To be determined

vii. said 'I will come round tonight', or words to that effect;
To be determined

viii. said 'don't worry I know where you live', or words to that effect.
To be determined

8. At all material times:

a. Patient C was vulnerable due to a mental health condition;
To be determined

b. you were aware of Patient C's vulnerability. To be determined

Patient D

9. On 19 May 2014 you consulted with Patient D during which you inappropriately:

a. touched Patient D, in that you:

i. pushed Patient D's feet on to your genitals; To be determined

ii. moved Patient D's feet up and down your genitals; To be determined

iii. ran your hands along Patient D's feet; To be determined

b. communicated with Patient D, in that you:

i. said 'you have lovely XXX', or words to that effect; To be determined

ii. said 'maybe you've got some [XXX] in XXX that I might get to see one day', or words to that effect; To be determined

iii. asked Patient D what she did with her time, or words to that effect;
To be determined

iv. asked Patient D where she XXX, or words to that effect; To be determined

v. asked Patient D what time she went to XXX and returned home, or words to that effect; To be determined

vi. asked Patient D about other places that she went to, or words to that effect; To be determined

vii. asked Patient D who she lived with, or words to that effect; To be determined

viii. asked Patient D if she had a partner/if she was married, or words to that effect; To be determined

ix. said that you had separated from your wife, or words to that effect; To be determined

x. said that you did not get on with your wife, or words to that effect; To be determined

xi. told Patient D that you had financial difficulties, or words to that effect; To be determined

xii. referred to Patient D as 'sweetheart', or words to that effect. To be determined

10. On a date in 2014 you consulted with Patient D during which you inappropriately communicated with Patient D, in that you said that you:

    a. had a fetish for ladies' feet, or words to that effect; To be determined

    b. loved ladies' feet in particular, or words to that effect; To be determined

11. On or around 3 June 2014, on the XXX bus, you asked Patient D:

    a. where she was going, or words to that effect; To be determined

    b. if you could go along with Patient D to the XXX pub, or words to that effect. To be determined

12. On or around 10 June 2014 you:

    a. went to Patient D's flat; To be determined

    b. tried to look inside Patient D's flat through the window; To be determined

    c. banged on Patient D's door. To be determined

13. On one or more occasion in 2014, other than at paragraph 12, you went to Patient D's flat. To be determined

14. On or around 16 July 2014 you:

    a. telephoned Patient D from XXX: To be determined

    b. asked Patient D if you could meet with her after you had treated a patient, or words to that effect. To be determined

15. On or around 22 August 2014 you:

    a. telephoned Patient D; To be determined

    b. asked Patient D to meet you on the following Tuesday, or words to that effect. To be determined

16. On a date in 2014 you:

    a. telephoned Patient D; To be determined

    b. informed Patient D that you stay at XXX on Tuesday nights and that it costs £20.00, or words to that effect; To be determined

    c. asked Patient D if you could stay with her and use the £20.00 as referred to in paragraph 16.b on a meal instead, or words to that effect. To be determined

17. During 2014 you telephoned Patient D:

    a. on or around the dates as set out in Schedule 1, and; To be determined

    b. during those telephone calls:

        i. referred to Patient D as 'sweetheart', or words to that effect; To be determined

        ii. inappropriately told Patient D personal information about yourself, in that you said that:

            1. you lived in XXX, or words to that effect; To be determined

            2. you have a son and a daughter, or words to that effect; To be determined

3. your father had passed away, or words to that effect;
   To be determined

4. you come from Egypt. To be determined

18. During 2015 and 2016, on one or more occasion, you consulted with Patient D during which you:

    a. inappropriately touched Patient D in that you touched Patient D's legs;
       To be determined

    b. sat inappropriately close to Patient D; To be determined

    c. inappropriately communicated with Patient D, in that you:

        i. referred to Patient D as 'sweetheart', or words to that effect;
           To be determined

        ii. told Patient D that you loved her, or words to that effect.
            To be determined

19. On a date in January 2017 you:

    a. telephoned Patient D; To be determined

    b. referred to Patient D as 'sweetheart', or words to that effect;
       To be determined

    c. asked Patient D if you could come and see her/spend time with her, or words to that effect. To be determined

20. At all material times:

    a. Patient D was vulnerable due to a mental health condition;
       To be determined

    b. you were aware of Patient D's vulnerability. To be determined

21. Your conduct as described at paragraphs 1 to 7 and 9 to 19 above was sexually motivated. To be determined

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct." To be determined

Witness Evidence

17. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Ms A, witness statement, dated 28 February 2017;
- Ms B, witness statement, dated 10 March 2016, and supplemental witness statement dated 14 July 2022;
- Patient C, witness statement, dated 14 July 2016, and supplemental witness statements dated 26 July 2022 and 8 August 2022;
- Patient D, witness statement, dated 4 November 2021, and supplemental witness statement, dated 20 September 2022;
- Ms G regarding Patient C, witness statement, dated 14 July 2022;
- Ms H regarding Patient D, witness statement, dated 12 October 2021;
- Mr I re Patient D, witness statement, dated 10 May 2022;
- Ms J re Patient D, witness statement, dated 19 July 2022, and supplemental witness statement, dated 12 October 2022.

18. Dr Kamel did not provide a witness statement.

Documentary Evidence

19. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Correspondence from Isle of Wight NHS Trust to the GMC, dated 2 March 2015;
- Trust notes of meeting with Dr Kamel, dated 12 September 2014;
- Investigation report from Isle of Wight NHS Trust, dated 9 October 2015;
- Initial account of Patient C, dated 23 September 2014;
- Patient C's record of police interview, dated 2 October 2014;
- Patient C’s medical records, various dates;
- Appointment letters provided by Patient C, various dates;
- Dr Kamel's record of interview with Hampshire Constabulary to the GMC. 11 November 2014;
- Initial account of Ms A, dated 15 October 2012;
- Witness statement of Ms A given to the interview with the Isle of Wight NHS Trust, dated 31 October 2012;
- Initial account of Ms B, dated 15 October 2012;
- Witness statement of Ms A given to the interview with the Isle of Wight NHS Trust, dated 22 November 2012;
- Summary of Patient D’s interview with Hampshire Constabulary, dated 29 June 2017;
- Patient D’s medical records, various dates;
- Patient D’s 2014 calendar entries, various dates; and
- Rule 7 response, dated 24 February 2022.

The Tribunal's Approach

20. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Kamel does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

21. The GMC sought to rely on previous findings of a GMC Fitness to Practice Panel from 2010 as 'bad character evidence'. Ms Dawson submitted that the decision was both fair and relevant within the meaning of Rule 34. She submitted that the past conduct and findings were relevant to the Tribunal's consideration of the current case. The Legally Qualified Chair (LQC) advised that there was a potential risk of unfairness and/or a danger that the tribunal may attribute too much weight on such evidence if it was admitted at the facts stage. The Tribunal accepted the LQC's advice, and it decided that the evidence would be excluded at the facts stage. It decided that whilst this evidence was likely to be relevant, the risk of unfairness when dealing with an unrepresented doctor was increased. The Tribunal accepted the direction given by the LQC that the 2010 decision should be 'put out of the minds' of the Tribunal members during fact finding.

The Tribunal's Analysis of the Evidence and Findings

22. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Paragraphs 1 to 3 of the Allegation relating to Ms A and Ms B

23. The charges relating to Ms A and Ms B have been considered separately during deliberations. However, in drafting the Tribunal's reasons, there are clear themes between both cases. Both complainants were XXX and as such were XXX junior XXX staff. They both worked with Dr Kamel, and the events which led to them both making formal complaints arose within weeks of each other in September 2012. The Tribunal understands Dr Kamel's case to be that there is an innocent explanation for the events and/or that the events did not happen and/or the complainants had colluded. It is appropriate therefore to set out the rationale for these heads of charge together.

Ms A

24. The events relating to Ms A occurred on 3 September 2012. XXX. She alleges Dr Kamel was overly familiar and tactile, and made inappropriate physical contact with her during the time she was working with him that day.

25. At the end of the day, she reported her concerns about Dr Kamel to a more senior clinician. That person will be referred to as Ms E as there are potentially disparaging claims

made by both complainants, and Ms E was not party to these proceedings. Those claims are important elements of the factual matrix and need to be set in their proper context.

26. Ms A claims that Ms E did not take forward the concerns that had been raised by her on 3 September 2012. It was only when a further incident arose on 24 September 2012, involving Ms B that action was taken. It was after that later event that Dr F became involved and took the complaints forward. Both complainants made notes within a short time frame of the events. The Trust conducted an interview on 31 October 2012.

27. The Tribunal noted Ms A's account was written within 6 weeks of the alleged misconduct by Dr Kamel, on 15 October 2012. She stated that:

> *'As* [Dr Kamel] *came into the XXX room I introduced myself, he came towards me grabbed my hand + kissed it, put his arm around my waist + pulled me towards him, but I managed to get free.*
>
> *All through XXX he asked me many personal questions that I felt were inappropriate. Later that afternoon…he asked me to sit a while, when I sat he sat in front of me almost wedging me in with his knees pushed up against mine so I couldn't move, he then took my hand + with his other hand he brushed my hair out of my eyes + ran his hand down my face to my chin + said "how come someone as beautiful as XXX" at that point I forced my way up + said, because XXX + left the room.*
>
> *After I reported the incident to* [Ms E] *I did not return to the room until [Dr Kamel] had left the premises.'*

28. The Tribunal also considered the notes made during the trust interview, and decided these were consistent with Ms A's initial account. Ms A's witness statement is also consistent in terms of her account of Dr Kamel grabbing and kissing her hand, pulling her towards him, putting his arm around her waist. That account related to what happened at the start of the day and then she explained that during the day Dr Kamel asked her personal questions. At a later point when she sat down in the XXX room, he wheeled his seat over to her putting his knees against hers 'effectively wedging me into my seat' as she put it. Dr Kamel asked her some personal questions and at some point, she became upset and told Dr Kamel she had recently been XXX. She goes on to say that during that conversation, Dr Kamel took her hand, brushed her hair away and stroked his hand down her face. Dr Kamel said that she was *"far too beautiful XXX"*. The XXX then walked in, and Ms A says she took her opportunity to 'force my way up and said to Dr Kamel "because XXX"' and she walked away.

29. During the Trust investigation, Dr Kamel offered an alternative version of events stating:

a) *'I felt I needed to give her support so I moved my chair towards her';*

b) *'I gave her a tissue and handed it towards her face, I may have brushed some of the tears away with the tissue and at the time I may have inadvertently brushed her face'; and*
c) *'I may have said words like that but not meant it in that way'.*

30. He offers a similar explanation in his Rule 7 response dated 10 May 2017, whilst denying with charge 1(a).

31. The Tribunal decided that Dr Kamel's actions were over familiar. XXX. It might have been appropriate to comfort someone who got upset if Dr Kamel had been well-acquainted with them. However, the 'comforting' event came after other inappropriate events upon Dr Kamel's XXX encounter with Ms A earlier that day.

32. The Tribunal accepted the submission by Ms Dawson that Dr Kamel's explanations were at least partial admissions that he moved towards Ms A and that there had been physical contact.

33. Ms A was sufficiently concerned by what went on that she went to speak with Ms E. She claims Ms E 'brushed it off a bit saying that he was known for that sort of thing' in her trust investigation interview and in a similar vein in her witness statement. Ms E was interviewed but did not recall Ms A reporting matters on 3 September 2012. The Tribunal considered whether that undermined Ms A's accounts. However, the contrary view was reached. The Tribunal considered the brushing off of Ms A's concerns fitted other evidence that Dr Kamel's behaviour was known about. It pointed towards some level of tolerance of Dr Kamel's inappropriate behaviour within XXX. That is particularly so when both Ms A and Ms B went to Ms E to complain about Dr Kamel's inappropriate behaviour but little was done about it. Ms A claims Ms E *'did not seem bothered about it'* so both complainants went to Dr F, who was the lead consultant in that team, instead.

34. The Tribunal decided there were a number of things which Dr Kamel did which indicate his behaviour was inappropriate. Their knees touching together alone might have been inadvertent but grabbing and kissing of the hand, and putting the arm around Ms A's waist indicated inappropriate behaviour towards Ms A. This was deliberate and directed towards a junior staff member. Dr Kamel's admission that he said those words to her but not in that way was a partial admission and the Tribunal concluded this was confessing a half-truth to provide plausibility to his narrative. The Tribunal did not consider Dr Kamel's account was credible and was put forward to minimise his behaviour when explaining the situation in interviews.

35. The Tribunal considered Ms A's initial account was compelling. The Tribunal was satisfied that there was a credible and consistent account given by Ms A which was contemporaneous to the events, and was supported with her later accounts, including her GMC witness statement. The Tribunal preferred her accounts of what happened over Dr Kamel's partial explanation. She was in a vulnerable position given the power imbalance between their respective grades. She was also vulnerable due to these events occurring on

the XXX. There were a number of instances of inappropriate behaviour during the day. Cumulatively, these were of serious concern as to the motivation behind them.

36. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that the events took place as alleged by Ms A. **As such, all elements of paragraph 1 of the Allegation are found proved.** [Sexual motivation to be dealt with at 21]

Ms B

37. Ms B is XXX and makes similar claims to Ms A, that Dr Kamel was overly tactile, made inappropriate comments and physical contact with her. Ms B's claims related mainly to events on 24 September 2012, but she also claims events took place on an earlier date.

38. According to her evidence in the Trust investigation, Ms B told the investigator that Dr Kamel had tried to hold her hands a few weeks before on 19 March 2012. She complained that Dr Kamel had tried to hold her hand on several occasions that day and that he had been "touchy feely". Ms B said that she had reported this to Ms E who had responded that "we need to be careful as he needs to be chaperoned at all times".

39. Ms B gives a consistent account in her GMC statement. She goes on to say that in March 2011 during XXX with Dr Kamel "he was very touchy feely." She gave an account of how he put his hand on top of hers when she was standing at the desk and that she told him "*don't do that*" and that Dr Kamel 'just laughed'. She said he stood there talking and got so close 'that he put his arm around my shoulders' and Ms B moved away. He continued with this behaviour and tried to hold her hand. She said: 'I used my body language to distance myself from him. I pointedly moved away from him'. She recounts she went to speak to Ms E about what had happened. Ms B decided to tell other XXX *"you need to watch yourself, he is a bit touchy feely"*. She said that: 'I felt that he was creepy'. Ms B did not work with Dr Kamel again as she told Ms E that she did not wish to work with him anymore.

40. The first point to note is that the reference to March 2012 must be erroneous. The entire GMC statement indicates that her first contact with Dr Kamel was in 2011, and that the first incident took place in March 2011. Aside from that discrepancy, the core of the account has the ring of truth to it. It is a compelling account with the initial formal account recorded in the interview within 18 months of the events. Her account has remained consistent. The Tribunal prefers this account to the bare denial made by Dr Kamel.

41. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that the events took place as alleged by Ms A. **As such, all elements of paragraph 2 of the Allegation are found proved.**

42. Ms B further claims that the same sort of inappropriate behaviour occurred on 24 September 2012. Again, Dr Kamel denies this though he admits he did ask Ms B out for a

drink "which I should not have done" and apologies for making her feel uncomfortable. Dr Kamel goes on to say:

> *"I would like to say that Ms A and Ms B have influenced each other's statements and there is an obvious tendency to make me look like a person whose actions are inappropriate even when a normal conversation takes place. Ms A and Ms B were aware of my previous history.*
>
> *I am a friendly modest person and I treat all my colleagues at work with respect and kindness which sometimes get misunderstood and misinterpreted. I am fully aware of the boundaries amongst work colleagues and I always stay within those boundaries."*

43. Ms B wrote an initial account about the September events on 15 October 2012 after going to see Dr F. She talks about finding Dr Kamel's manner *'inappropriate'* because he was 'getting very close to me and grabbing my hand whilst talking to me'. She goes on to state that she was washing up in the coffee area when Dr *Kamel '…approached me pinning me into the corner'*. She says he asked: *"would you like to go out for a drink?*". While he was saying that 'his hand ran up my leg'. She goes on to say that she was '*horrified*' and told him "*No and to back off*". He then left and she went to see Ms E. Ms E said the matter would be raised with Dr F.

44. During the trust investigation interview, Ms B gave an account of the September events. She said Dr Kamel had asked a number of questions about her personal life. She then gives an account of her being in the XXX area when Dr Kamel entered with his belongings at the end of the day. He had one arm free and walked towards her, pinning her against the work surface in the corner. She explained it was a very small space and *'there was nowhere for me to go'*. She continued that Dr Kamel:

> *"…took his hand and ran it from just above my knee to my waist on my left-hand side, as he was doing this he asked if I would like to go for a drink with him. I said no and told him to back off, I said this loudly and he moved quickly away from me. I was quite shaken by the incident so I immediately went to* [Ms E]*…I was shocked by the incident…"*

45. In her GMC statement about the September events, Ms B recounts identical behaviour to what had happened in March 2011. She referred to Dr Kamel coming to the reception desk, putting his arm around her shoulders and grabbing her hand on more than one occasion. The XXX continued and then during her lunch break Ms B was looking at houses on the computer. She claims Dr Kamel came to talk to her about houses and she considered this to be general chit chat. She later took a coffee into XXX and Dr Kamel started chatting to her asking her various questions about her personal life. She said she was XXX and he then said: *"a nice looking woman like you XXX"*. She took this as general chat again.

46. At the end of the XXX, she says she was in the XXX and Dr Kamel came into the XXX. There was no one else in the room. She says Dr Kamel was arms-length away from her and when she turned around, Dr Kamel was then in front of her. She claims that Dr Kamel:

> *"…walked towards me and pinned his body against mine so that I was pinned against the XXX behind me. My back was pushed against the XXX. Dr Kamel's right side of his body was pinned against my chest and the middle of my body. This wasn't in a forceful way but I could feel his weight, he was very close to me and was side- on to me.*
>
> *Dr Kamel said, "would you like to go for a drink?" I said, "no". As he was saying this, he touched me, moving his hand up from [my] knee to my thigh. This was in one stroke from my right knee up to the middle of my right hip. I would say this lasted a couple of seconds. At this point I told Dr Kamel to back off. He backed away and went out the back door with his belongings. When I said "back off", I sort of shouted this at him. He looked horrified."*

47. Ms B then went to Ms E as *"I was quite shaken up about it"*. She told Ms E that *"something needs to be done about him".*

48. The Tribunal noted Dr Kamel's admission that he had asked Ms B out for a drink. Again, the Tribunal considers this is a half-truth to fit his own narrative. The Tribunal did not consider the explanation that he shoved past Ms B to be credible. The Tribunal rejects Dr Kamel's assertion of collusion between Ms A and Ms B. They had raised complaints with Ms E and pursued them with Dr F, and underwent an interview as part of the trust investigation. There is no substance to the claims of collusion.

49. The Tribunal noted the initial account was written a matter of three weeks after the September events. The core of the account has the ring of truth to it. It is a compelling account which has remained consistent. The Tribunal prefers Ms B's account to the denials and alternative version relied on by Dr Kamel. Ms B was in also in a vulnerable position given the power imbalance between their respective grades. She was vulnerable due to these events occurring on what must have been XXX, and when her earlier complaints to Ms E had not been acted upon. There were a number of instances of inappropriate behaviour during the day which culminated with an admitted act of asking Ms B out for a drink, but as the Tribunal finds a clearly sexually motivated physical assault. Cumulatively, the events on this day were of serious concern and there was a clear sexual motivation behind them.

50. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that the events took place as alleged by Ms B. **As such, all elements of paragraph 3 of the Allegation are found proved.**

Paragraphs 4 to 8 of the Allegation relating to Patient C

Patient C

51. Patient C claims that at various consultations she attended to see Dr Kamel, he made inappropriate physical contact. She also claims that Dr Kamel made inappropriate comments to her.

52. It was appropriate to deal with charge 8 and the issue of vulnerability first. The Tribunal noted a letter dated 27 March 2014 from Dr L to Patient C's General Practitioner. She was a specialist clinical health psychologist in long term conditions who worked in the Department of Anaesthetics. She copied Dr Kamel into her letter. She was treating Patient C's neck and shoulder pain and the Tribunal considered it would have been normal practice for another treating consultant to be copied into hospital letters. The particular relevance that the Tribunal can infer is that Dr Kamel as the specialist pain doctor would want to know what the clinical psychologist was doing. It was highly likely Dr Kamel would have considered this letter given its importance. The letter makes clear reference to Patient C's mental health issues, ability to inflict 'severe self-harm' and plans to 'take her life using medications if her emotional situation deteriorated further'. Dr Kamel saw Patient C on a number of occasions and he would have ascertained her vulnerability during those consultations in the Tribunal's assessment of all the evidence. It was more likely than not that the long-standing mental health issues were known from the outset of the treatment provided by Dr Kamel.

53. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that Patient C was vulnerable due to mental health conditions and that Dr Kamel was aware of her vulnerability. As such, all elements of paragraph 8 are found proved.

54. Dr Kamel denied all of the allegations made by Patient C. He said he was fully aware of boundaries with patients, treating them with respect and dignity. He considered Patient C's 'serious issues with XXX' may have impacted on the allegations being made. Dr Kamel was interviewed by the police on 18 November 2014. It is appropriate to note that he was interviewed about Patient C, but also reference was made to the previous complaints made by Ms A and Ms B. The Tribunal notes, Patient D had not yet made a complaint against Dr Kamel.

55. The mainstay of Dr Kamel's denials is in the police interview. He claimed that Patient C had acted inappropriately towards him, telling him she was lonely and had no one. She had asked him to come to her home to see her for a coffee. Dr Kamel had said aside from on one occasion there had always been a chaperone present. He denied kissing Patient C's hands or making comments about her nails, and denied rubbing her legs. It is material to Dr Kamel's case that the Tribunal notes Patient C XXX.

56. Patient C's evidence suggests she was unaware that some of the incidents were inappropriate or that they amounted to something she was able to complain about. She may well have been somewhat naïve about, or fearful of, what was going on. The Tribunal accepted she was in a vulnerable position, not only due to her mental health conditions, but also as she was in pain and wanted to be treated for it.

57. Patient C's complaints stretch from her first appointment with Dr Kamel on 23 December 2013 to 13 August 2014. She was interviewed by the police on 2 October 2014, some six weeks after the last alleged incident. In her police interview, she refers to the last appointment as the one where Dr Kamel again kissed her hand but 'looked at her [in a] funny strange way'. She had told the police that due to the way she had felt she pulled her hand away. She alleges that the comments made about her being lonely and Dr Kamel inviting himself for coffee were made during this consultation. Her police interview account is very close in time to the last event and sufficiently contemporaneous to other alleged incidents to be reliable. It is a cogent account of events as she recalled them.

58. Patient C talks about making notes of what had gone on in the last consultation on 13 August 2014 at the suggestion of the housing liaison officer. The Tribunal found the handwritten entries by Patient C on the back of her appointment letters to be compelling. There is no reason to doubt they were written on or around 13 August 2014. That is sufficiently contemporaneous to the dates of the alleged incidents to conclude that they are reliable. The originals are handwritten in capitals and state amongst other things:

> *'14 Mar had neck done. Don't feel comfortable with Dr Kamel. He touches and kisses hand rubbed my fingers said any pain or numbness in them. but held quite long?*
>
> *'He keeps rubbing my hands & squeezing them and touching up and down my legs. If this is the treatment then it is upsetting me. a bit pervy I think'*
>
> *'I was alone with him he kept holding my hand kissing it a couple times, felt my legs up and down chatted about XXX he said are u lonely. Shall I come round to yours for coffee sometime. (I reply I don't drink coffee) thought it was a joke at first. He said what lovely nails & soft hands "I'm free after work I will pop in then!! I was taken aback so much, just wanted to get the hell out'*

59. At the end of the last note Patient C goes on to say she made her excuses to get out, sat in her car shaking. When she got home, she told the housing liaison officer, *'bit scared he (might) turn up'*. She goes on to say that *'I haven't led him on, I feel dirty in a way locked my door'*.

60. Patient C had been seeing Ms G who was a psychanalytic psychotherapist. She had previously worked in the same hospital as Dr Kamel and knew of him but did not know him personally. She had restarted some locum work at the same hospital and first saw Patient C at the hospital on 24 July 2014. Ms G stated in her statement that Patient C made an allegation that Dr Kamel had acted inappropriately with her, though she was not making a formal complaint. Ms G considered the matter to be really serious and felt the need to report it to her senior, Dr M. The Tribunal notes that he was also in the same department as Dr Kamel. The Tribunal took account of the clinic notes from 28 August 2014. The relevant part of the handwritten notes appears to state:

> *'When telling me about facet jt (joint) injection done by Dr Kamel- she suggested he'd been inappropriately tactile- not letting go of her hand, kissing her hand & touching her leg. Then said as she was lonely he'd suggested coming to her house for coffee. Said she felt extremely uncomfortable, but hating confrontation, (??) not say anything, and is afraid she would be denied treatment if she protests in any way- in fact, she folded her arms in a clear non-verbal gesture. To discuss iv s/v with* [XXX].'

This is the earliest recorded initial complaint of what Patient C claims. It is a fortnight after the alleged incidents on the final consultation. It is supportive of her claims that she went on to make to the police some weeks later.

61. There was then a formal complaint made to the hospital and Patient C was interviewed on 23 September 2014. Her account as part of the hospital investigation is consistent with other accounts and has the ring of truth to it. It is a compelling and troubling complaint of what the Tribunal considered to be 'grooming' behaviour.

62. Patient C goes on to recount similar themed evidence in her witness statement to the Tribunal. The totality of her evidence is credible and consistent; indeed, her accounts were compelling, and the Tribunal did not have any matters to put to her.

63. The totality of the evidence supports Patient C's claims of what went on during her consultations with Dr Kamel. The Tribunal preferred these compelling accounts to the somewhat evasive accounts put forward by Dr Kamel in the limited evidence that we have about his version of events.

64. In particular, the Tribunal rejects Dr Kamel's accounts that Patient C had acted inappropriately towards him, telling him she was lonely and had no one; or that she had asked him to come to visit her. The Tribunal considered this was both untrue and an attempt at 'victim blaming'. The Tribunal also rejected Dr Kamel's denials about kissing Patient C's hands, making comments about her nails or rubbing her legs. Patient C's accounts were consistent and compelling. Had a patient made advances to Dr Kamel, the Tribunal would have expected to have seen that in the records or for the matter to be reported. The physical contact, if it formed part of his clinical examination, was not recorded. The claims about there always being a chaperone present apart from one occasion was not the whole picture. There was mixed evidence from Patient C, Dr Kamel and the hospital as to what the position was as regards chaperones, when they were required to be in place and under what circumstances. It was more likely than not a chaperone was not able to see the incidents or was not in the room when the events took place.

65. Having made its substantive decisions about the evidence relating to Patient C's claims, it is appropriate to deal with a number of features which were 'strikingly similar' between Patient C's complaints and those of Ms A and/or Ms B. Dr Kamel's conduct arose on his first encounter with all three. There was a degree of vulnerability and a power imbalance between the complainants and Dr Kamel. There were a number of distinguishing features of overly familiar comments and questions, some of which had a sexualised undertone. The

complainants referred to the touching and kissing of hands. There was a common theme of Dr Kamel sitting with his knees very close to them. The stroking/rubbing up and down of the leg was also similar.

66. All of those features extinguish the claims that Patient C was to blame for the events. Dr Kamel took advantage of Patient C and abused his position. His behaviour was clearly sexually motivated. It has clearly had a traumatic impact on Patient C.

67. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that the events occurred as alleged by Patient C. **As such, all elements of paragraphs 4 to 7 are found proved.**

Paragraphs 9 to 20 of the Allegation relating to Patient D

68. Patient D attended various consultations with Dr Kamel during the period 2014 to 2016. She claims Dr Kamel made inappropriate physical contact with and inappropriate comments to her. She also alleges he telephoned her on a number of occasions until 2017 and also went to her flat.

69. It is appropriate to deal with charge 20 and the issue of vulnerability first. The Tribunal noted that Patient D attended her first appointment with Dr Kamel on 19 May 2014. Dr Kamel wrote a clinic letter dated 15 June 2014 to Dr K, who the Tribunal inferred was Patient D's GP. The content of that letter relates to the appointment on 19 May 2014 and the Tribunal concluded the contents confirm this was Patient D's first appointment with Dr Kamel. In the letter, Dr Kamel refers to 'high levels of depressive symptomatology and pain related anxiety' and 'her background depression and anxiety which as you know is significant and long standing'. It was self-evident Dr Kamel was aware of Patient D's mental health condition and the attendant vulnerability from the very outset.

70. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that Patient D was vulnerable due to mental health conditions and that Dr Kamel was aware of her vulnerability. **As such, paragraph 20 is found proved.**

71. Patient D's case arises in a similar matrix to Patient C's particularly that both of them were being treated by Dr Kamel from 2014. However, there is one notable difference in that Patient D made her formal complaint in 2017 when she was alerted to a newspaper article about Dr Kamel. However, the GMC rely on a witness statement from Ms J who was Patient D's mental health worker to show that Patient D had not been influenced by the newspaper accounts.

72. The Tribunal accepted the witness statement accounts of Ms J as credible. She states that around 2016 Patient D told her:

> *'…on one of the first occasions she had seen Dr Kamel in 2014, when Dr Kamel was examining her on the examination bench, he was touching her feet and pushed them*

to his genital area and said something like he 'liked having ladies feet pressed on him'. He also made comments about XXX and said something like 'maybe one day I'll see them'. [Patient D] *also told me that Dr Kamel had phoned her a few times and had spoken to her in a sexual way…'*

73. The Tribunal noted other matters were recounted to Ms J and that she tried to persuade Patient D to report the matter to the authorities, but Patient D was reluctant to do so. The Tribunal was satisfied this account given by Patient D to Ms J predated the newspaper article. It also demonstrates that Patient D did not have any obvious ulterior motive in coming forward to complain. That is particularly so given how she first attempts to complain.

74. The complaint was made anonymously. The Tribunal noted that an adult safeguarding nurse at the trust, Ms H, became involved in Patient D's case after Patient D rang to make the anonymous complaint about Dr Kamel. Ms H's statement recounts that the caller left no details and said she would discuss matters with her community psychiatric nurse. This information made Ms H very concerned about the caller being an 'at-risk adult'. She managed to track down Patient D through hospital records and made an adult risk referral to the Local Authority. On 8 May 2017, Ms H met with Patient D and Patient D's mental health support worker, Ms J. A note was taken of what Patient D disclosed during that meeting. It is recorded that Patient D spoke about Dr Kamel saying he liked her and that he wanted to meet up, but she did not want to as she was 'frightened'. She talks about him coming to her house 'but I haven't let him in'. She refers to the calendar that she wrote all the dates down. She sets out how Dr Kamel asked her to 'push my feet down on his thighs…moved my feet towards his private parts'.

75. The note goes on to reference Dr Kamel asking Patient D about 'if I had XXX'. She says he told her 'all sorts of things about himself…money troubles…his dad died last year and about his other family, his children. He lives in XXX and that he stays over in XXX on Tuesday night. It costs him £20. He said if he stayed with me he could use the money for takeaway or something…' She goes on to reference the phone calls and visits. The Tribunal considered it was a troubling account that was clearly distressing for Patient D to recount.

76. Some weeks later, Patient D was interviewed by the police. The Tribunal went through the notes of the police interview on 29 June 2017 with some care as there were a number of charges which did not appear to have an obvious evidential source. However, on a close examination of that interview, all of the charges are referenced there and are supported by other evidence before the Tribunal. The police interview is a systematic unpacking of the allegations made by Patient D both in terms of the questioning and the detailed answers provided by Patient D. The totality of this evidence paints a compelling, consistent and credible picture. There were a number of relatively minor discrepancies but the Tribunal decided they did not undermine the overall reliability of the evidence.

77. There was one significant piece of information that Patient D recounts in her evidence, and that is the charge of £20 for staying over XXX. The Tribunal notes from other evidence it was in fact £25, but the Tribunal decided this was not a material difference. The

Tribunal considered that it was highly unlikely Patient D would have known the cost unless Dr Kamel had told her. That undermines what the Tribunal considers to be an overall denial of his alleged behaviour, including inappropriate conversations, with Patient D.

78. The Tribunal had not been taken to specific evidence as to the dates of the 2015 and 2016 hospital appointments which are referenced in charge 18. However, it was able to triangulate emails to establish that there were a number of dates when Patient D was seen by Dr Kamel as the only doctor (rather than joint appointments). An email dated 3 November 2017 sent to the trust investigator, Mr N, confirmed Patient D saw Dr Kamel on 6 October 2015, 28 January 2016, 13 May 2016 and 19 December 2016. There were corroborating clinic letters from Dr Kamel for those four dates in the medical records. The Tribunal was satisfied that Patient D had been seen by Dr Kamel on those dates.

79. The mainstay of Dr Kamel's rebuttal comes from a witness statement of 6 November 2017 written as part of the trust investigation. He confirms he contacted Patient D outside the clinic to check how she was on her medication and to adjust them accordingly. However, there was nothing noted in her records by Dr Kamel. He denied meeting Patient D outside of the clinic. With regards to physical examinations, he stated 'I don't think I did physically examine other than when I treated her in theatres for her back injections… [when there] was always at least 5 other staff members and never alone with her'.

80. Dr Kamel was interviewed by the police on 24 July 2017 and gave detailed rebuttals. He denied sexual touching and harassing Patient D. He indicated amongst other things that he would have conducted an examination of her legs which involved touching from the thighs down to the feet and would ask the patient to push out when the legs were together. He indicated he would put his hands inside the knees and ask the patient to push out with the legs. He indicated this was routine for examining someone with a back problem. He tried to put people at ease and some people would think he was friendly; he may ask about work as it may impact on a back problem. He might ask about family circumstances as stress could cause problems. He denied being 'touchy' towards Patient D and denied sexually assaulting her. He insisted someone else would be in the room with him and there was no reason for him to be alone with the patient, however he accepted this could have happened. He had started keeping detailed notes since May 2015. He denied telling Patient D that he loved her and said he was faithful to his wife. He did not recall telling Patient D about his personal circumstance but may have done so if asked. He also denied going to her address and denied making inappropriate phone calls.

81. The totality of Patient D's evidence recounted to various individuals is credible and consistent. They amount to compelling evidence that Dr Kamel acted in the way alleged. The Tribunal did not have any matters to put to her. The Tribunal preferred these compelling accounts to the accounts put forward by Dr Kamel in the limited evidence that we have about his version of events.

82. As the Tribunal has set out above for Patient C, there was mixed evidence as to what the position was as regards chaperones, when they were required to be in place and under

what circumstances. The Tribunal accepted Patient D's evidence that there was no chaperone present on the first appointment. It also accepted there were chaperones on some later appointments, but not all of them. The accounts given by Patient D that Dr Kamel would find ways of getting the chaperone to leave the room had the ring of truth to it. The Tribunal accepted this was when the incidents of inappropriate behaviour would occur.

83. Patient D's claims have features that are 'strikingly similar' to those set out in relation to Ms A, Ms B, and Patient C. Again, Dr Kamel's conduct arose on his first encounter. There was a degree of vulnerability and a power imbalance between the complainants and Dr Kamel. There were a number of distinguishing features of overly familiar comments and questions, some of which had a sexualised undertone. The touching the stroking/rubbing up and down of the leg was also similar. The Tribunal considered whether there was an innocent explanation in terms of this being part of the medical examination. The Tribunal decided that the totality of what went on casts what might have been a legitimate part of an examination as something more sinister. There was sufficiently cogent evidence to conclude there was a sexualised element to it, and that the persistent phone calls and inappropriate attendance at Patient D's address was 'strikingly similar' to the fear Patient C had that Dr Kamel would turn up at her home.

84. All of those features lead the Tribunal to conclude Dr Kamel took advantage of Patient D and abused his position. His behaviour was clearly sexually motivated.

85. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that the events occurred as alleged by Patient D. **As such, all elements of paragraphs 9 to 19 are found proved.**

Paragraph 21 of the Allegation

86. The final element is the sexual motivation charge. The Tribunal relies on its reasons set out above as to why it reached the conclusion Dr Kamel's behaviour was sexually motivated towards Ms B, Patients C and D.

87. The case of Ms A is not as obvious. However, in revisiting the themes in the case there were strikingly similar features. The Tribunal concluded that the conduct towards Ms A was brought to an end early as she got away from him. She did not work with him again prior to the complaint to Dr F. The Tribunal inferred that the behaviour was the early parts of the same pattern of grooming, and was therefore for a sexual reason. It was sexually motivated.

88. The Tribunal was satisfied the GMC has adduced sufficiently cogent evidence to show on the balance of probabilities that there was sexual motivation as alleged.
As such, all elements of paragraph 21 are found proved.

The Tribunal's Overall Determination on the Facts

89. The Tribunal has determined the facts as follows:
"That being registered under the Medical Act 1983 (as amended):

Ms A

1. On 3 September 2012, XXX, you inappropriately:

    a. touched Ms A, in that you:

        i. grabbed Ms A's hand; **Determined and found proved**

        ii. kissed the back of Ms A's hand; **Determined and found proved**

        iii. pulled Ms A towards you; **Determined and found proved**

        iv. put your arm around Ms A's waist; **Determined and found proved**

        v. put your knees against Ms A's knees; **Determined and found proved**

        vi. held Ms A's hand; **Determined and found proved**

        vii. brushed Ms A's hair away from her face;
        Determined and found proved

        viii. stroked your hand down Ms A's face; **Determined and found proved**

    b. communicated with Ms A, in that you:

        i. asked Ms A:

            1. 'where do you live', or words to that effect;
            Determined and found proved

            2. 'how old are you', or words to that effect;
            Determined and found proved

            3. 'do you go out much', or words to that effect;
            Determined and found proved

            4. on one or more occasion, whether she was single, or words to that effect; **Determined and found proved**

        ii. told Ms A that she was 'far too beautiful XXX', or words to that effect.
        Determined and found proved

Ms B

2. In March 2011, XXX, you inappropriately touched Ms B, in that you:

    a. put your right hand on top of Ms B's left hand; **Determined and found proved**

    b. put your arm around Ms B's shoulders; **Determined and found proved**

    c. on one or more occasion:

        i. put your arm around Ms B; **Determined and found proved**

        ii. tried to hold Ms B's hand. **Determined and found proved**

3. On 24 September 2012, XXX, you inappropriately:

    a. touched Ms B, in that you:

        i. put your arm around Ms B's shoulders; **Determined and found proved**

        ii. grabbed Ms B's right hand; **Determined and found proved**

        iii. put your right hand on top of Ms B's left hand;
        Determined and found proved

        iv. pinned your body against Ms B; **Determined and found proved**

        v. stroked Ms B's leg from her knee to her hip;
        Determined and found proved

    b. communicated with Ms B, in that you:

        i. said 'a nice woman like you XXX', or words to that effect; **Determined and found proved**

        ii. asked 'would you like to go for a drink', or words to that effect.
        Determined and found proved

Patient C

4. On 23 December 2013 you consulted with Patient C during which you inappropriately touched Patient C, in that you:

    a. rubbed up and down Patient C's left leg; **Determined and found proved**

    b. sat with your knees touching Patient C's knees. **Determined and found proved**

5. Between 14 March 2014 and 28 March 2014 you consulted with Patient C during which you inappropriately touched Patient C, in that you:

    a. kissed Patient C's hand; **Determined and found proved**

    b. rubbed Patient C's fingers. **Determined and found proved**

6. On 30 June 2014 you consulted with Patient C during which you:

    a. inappropriately touched Patient C, in that you:

        i. grabbed Patient C's left hand; **Determined and found proved**

        ii. grabbed Patient C's right hand; **Determined and found proved**

        iii. kissed Patient C's hand; **Determined and found proved**

    b. sat inappropriately close to Patient C; **Determined and found proved**

    c. inappropriately communicated with Patient C, in that you said:

        i. 'oh you have nice nails', or words to that effect; **Determined and found proved**

        ii. 'oh look, they are both very nice', or words to that effect. **Determined and found proved**

7. On 13 August 2014 you consulted with Patient C during which you:

    a. inappropriately touched Patient C, in that you:

        i. took hold of Patient C's hands; **Determined and found proved**

        ii. kissed Patient C's left hand; **Determined and found proved**

        iii. kissed Patient C's right hand; **Determined and found proved**

        iv. touched Patient C's left leg from the knee to the ankle; **Determined and found proved**

        v. moved your hands up and down the back of Patient C's left and right leg; **Determined and found proved**

    b. inappropriately communicated with Patient C, in that you:

i. said 'what lovely nails', or words to that effect;
Determined and found proved

ii. said 'what soft hands', or words to that effect;
Determined and found proved

iii. said 'you have got lovely legs', or words to that effect;
Determined and found proved

iv. commented how soft Patient C's skin on her legs was, or words to that effect; **Determined and found proved**

v. suggested to Patient C that you would 'pop round for a coffee', or words to that effect; **Determined and found proved**

vi. said 'don't worry I will drink tea', or words to that effect;
Determined and found proved

vii. said 'I will come round tonight', or words to that effect;
Determined and found proved

viii. said 'don't worry I know where you live', or words to that effect.
Determined and found proved

8. At all material times:

a. Patient C was vulnerable due to a mental health condition;
Determined and found proved

b. you were aware of Patient C's vulnerability. **Determined and found proved**

Patient D

9. On 19 May 2014 you consulted with Patient D during which you inappropriately:

a. touched Patient D, in that you:

i. pushed Patient D's feet on to your genitals;
Determined and found proved

ii. moved Patient D's feet up and down your genitals;
Determined and found proved

iii. ran your hands along Patient D's feet; **Determined and found proved**

b. communicated with Patient D, in that you:

i. said 'you have lovely XXX', or words to that effect; **Determined and found proved**

ii. said 'maybe you've got some [XXX] in XXX that I might get to see one day', or words to that effect; **Determined and found proved**

iii. asked Patient D what she did with her time, or words to that effect; **Determined and found proved**

iv. asked Patient D where she played XXX, or words to that effect; **Determined and found proved**

v. asked Patient D what time she went to XXX and returned home, or words to that effect; **Determined and found proved**

vi. asked Patient D about other places that she went to, or words to that effect; **Determined and found proved**

vii. asked Patient D who she lived with, or words to that effect; **Determined and found proved**

viii. asked Patient D if she had a partner/if she was married, or words to that effect; **Determined and found proved**

ix. said that you had separated from your wife, or words to that effect; **Determined and found proved**

x. said that you did not get on with your wife, or words to that effect; **Determined and found proved**

xi. told Patient D that you had financial difficulties, or words to that effect; **Determined and found proved**

xii. referred to Patient D as 'sweetheart', or words to that effect. **Determined and found proved**

10. On a date in 2014 you consulted with Patient D during which you inappropriately communicated with Patient D, in that you said that you:

a. had a fetish for ladies' feet, or words to that effect; **Determined and found proved**

b. loved ladies' feet in particular, or words to that effect.
Determined and found proved

11. On or around 3 June 2014, on the XXX bus, you asked Patient D:

    a. where she was going, or words to that effect; **Determined and found proved**

    b. if you could go along with Patient D to the XXX pub, or words to that effect.
    Determined and found proved

12. On or around 10 June 2014 you:

    a. went to Patient D's flat; **Determined and found proved**

    b. tried to look inside Patient D's flat through the window;
    Determined and found proved

    c. banged on Patient D's door. **Determined and found proved**

13. On one or more occasion in 2014, other than at paragraph 12, you went to Patient D's flat. **Determined and found proved**

14. On or around 16 July 2014 you:

    a. telephoned Patient D from XXX **Determined and found proved**

    b. asked Patient D if you could meet with her after you had treated a patient, or words to that effect. **Determined and found proved**

15. On or around 22 August 2014 you:

    a. telephoned Patient D; **Determined and found proved**

    b. asked Patient D to meet you on the following Tuesday, or words to that effect.
    Determined and found proved

16. On a date in 2014 you:

    a. telephoned Patient D; **Determined and found proved**

    b. informed Patient D that you stay at XXX on Tuesday nights and that it costs £20.00, or words to that effect; **Determined and found proved**

c. asked Patient D if you could stay with her and use the £20.00 as referred to in paragraph 16.b on a meal instead, or words to that effect.
Determined and found proved

17. During 2014 you telephoned Patient D:

a. on or around the dates as set out in Schedule 1, and;
Determined and found proved

b. during those telephone calls:

i. referred to Patient D as 'sweetheart', or words to that effect;
Determined and found proved

ii. inappropriately told Patient D personal information about yourself, in that you said that:

1. you lived in XXX, or words to that effect; Determined and found proved

2. you have a son and a daughter, or words to that effect;
Determined and found proved

3. your father had passed away, or words to that effect;
Determined and found proved

4. you come from Egypt. Determined and found proved

18. During 2015 and 2016, on one or more occasion, you consulted with Patient D during which you:

a. inappropriately touched Patient D in that you touched Patient D's legs;
Determined and found proved

b. sat inappropriately close to Patient D; Determined and found proved

c. inappropriately communicated with Patient D, in that you:

i. referred to Patient D as 'sweetheart', or words to that effect;
Determined and found proved

ii. told Patient D that you loved her, or words to that effect.
Determined and found proved

19. On a date in January 2017 you:

a. telephoned Patient D; **Determined and found proved**

b. referred to Patient D as 'sweetheart', or words to that effect; **Determined and found proved**

c. asked Patient D if you could come and see her/spend time with her, or words to that effect. **Determined and found proved**

20. At all material times:

a. Patient D was vulnerable due to a mental health condition; **Determined and found proved**

b. you were aware of Patient D's vulnerability. **Determined and found proved**

21. Your conduct as described at paragraphs 1 to 7 and 9 to 19 above was sexually motivated. **Determined and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct." **To be determined**

Determination on Impairment - 22/11/2022

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Kamel's fitness to practise is impaired by reason of misconduct.

2. The Tribunal indicated to Ms Dawson that the GMC's earlier application under Rule 34 of the Rules to rely on a previous 2010 decision was accepted for the impairment and sanctions stage. The Tribunal noted it was normal practice for previous findings to be disclosed after the fact findings, and as such it was both fair and relevant for the evidence to be relied upon.

3. It is relevant to summarise the salient features of what the 2010 decision related to as it forms part of the Tribunal's impairment consideration. Dr Kamel had been the subject of a previous GMC Fitness to Practice hearing in November 2010 ('the 2010 Panel'). Dr Kamel was the subject of allegations concerning his conduct towards five patients between 2007 and 2009. The 2010 Panel found that Dr Kamel had telephoned patients inappropriately; had sought to advance an intimate relationship with patients and had visited their homes on occasion without invitation. Dr Kamel was also found to have touched these patients' legs and had on one occasion kissed the feet of one patient. He was also found to have made inappropriate and sexualised comments towards patients. The 2010 Panel found that Dr Kamel had targeted vulnerable patients and that he had acted with a sexual motivation.

Submissions

Submissions on behalf of the GMC

4. Ms Dawson submitted that Dr Kamel's fitness to practise was currently impaired by reason of his misconduct. She reminded the Tribunal of relevant paragraphs of *Good Medical Practice* (2013) (GMP) and *'Maintaining a professional boundary between you and your patient' (2013)* which she submitted Dr Kamel had breached through his actions and she referred to relevant case law.

5. Ms Dawson submitted that Dr Kamel's inappropriate and sexually motivated conduct amounted to serious misconduct and as such there is a need to maintain public confidence in the profession and to uphold professional standards. She said that Dr Kamel had abused his position of authority when crossing professional boundaries in relation to his inappropriate and sexually motivated conduct towards Ms A and Ms B. This breached a fundamental tenet of the medical profession, namely, to act with integrity and had breached GMP, in particular:

> *'36 You must treat colleagues fairly and with respect.'*
>
> *65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

6. Further, she stated that Dr Kamel had engaged in grooming and harassing behaviour in relation to his inappropriate and sexually motivated conduct towards Patient C and Patient D. She stated that fellow professionals would consider his conduct to be deplorable. She emphasised that both Patient C and Patient D were vulnerable. She stated that Patient C was a XXX patient with associated mental health problems whilst Patient D was also struggling with mental health issues, and Dr Kamel was aware of these vulnerabilities. She referred to the following paragraph of GMP:

> *'53 You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.'*

7. Ms Dawson referred to Dr Kamel's November 2010 Fitness to Practise hearing, as well as the current Tribunal's findings against the doctor, and stated that such widespread sexual misconduct over a period of years, towards colleagues and vulnerable patients, was not readily remediable, even if a doctor had demonstrated insight and willingness to remediate. She further stated that Dr Kamel had provided no such evidence of insight or remediation. She submitted that there was a pattern of similar misconduct in this case and Dr Kamel's previous 2010 Fitness to Practise hearing and asserted that the doctor was a continuing risk to patient safety and argued that there remained a high risk of repetition.

8. Ms Dawson stated that Dr Kamel had shown no remorse and had denied his behaviour at the initial Trust investigation. She concluded by stating that it was necessary to

find Dr Kamel's fitness to practise to be impaired by reason of misconduct in order to uphold the overarching objective.

The Relevant Legal Principles

9. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

10. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and then whether the finding of that misconduct which was serious, could lead to a finding of current impairment. The Tribunal must determine whether Dr Kamel's fitness to practise is impaired today, taking into account Dr Kamel's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

11. The Tribunal had regard to the case of *CHRE v NMC and Grant* [2011] EWHC 927 where Dame Janet Smith's observations in the Fifth Report of the Shipman Inquiry were endorsed. Dame Janet Smith suggested that questions of impairment could be considered in the light of the following considerations:

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*
>
> > *a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
> >
> > *b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
> >
> > *c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
> >
> > *d. ….'*

The Tribunal's Determination on Impairment

Misconduct

12. In reaching its determination on whether Dr Kamel's conduct amounted to misconduct, the Tribunal has taken into account all the evidence received during the facts

stage of the hearing. It also relies on the detailed findings of fact that it had made. Turning first to charges relating to Ms A, the Tribunal considered the following parts of the facts determination were of particular relevance:

> ’34. The Tribunal decided there were a number of things which Dr Kamel did which indicate his behaviour was inappropriate. Their knees touching together alone might have been inadvertent but grabbing and kissing of the hand, and putting the arm around Ms A’s waist indicated inappropriate behaviour towards Ms A. This was deliberate and directed towards a junior staff member. Dr Kamel’s admission that he said those words to her but not in that way was a partial admission and the Tribunal concluded this was confessing a half-truth to provide plausibility to his narrative. The Tribunal did not consider Dr Kamel’s account was credible and was put forward to minimise his behaviour when explaining the situation in interviews.
>
> 35. The Tribunal considered Ms A’s initial account was compelling. The Tribunal was satisfied that there was a credible and consistent account given by Ms A which was contemporaneous to the events, and was supported with her later accounts, including her GMC witness statement. The Tribunal preferred her accounts of what happened over Dr Kamel’s partial explanation. She was in a vulnerable position given the power imbalance between their respective grades. She was also vulnerable due to these events occurring XXX. There were a number of instances of inappropriate behaviour during the day. Cumulatively, these were of serious concern as to the motivation behind them.’

13. In a similar vein, the Tribunal considered the following paragraphs encapsulated the seriousness of the facts found proved in relation to Ms B’s complaints:

> ’49. The Tribunal noted the initial account was written a matter of three weeks after the September events. The core of the account has the ring of truth to it. It is a compelling account which has remained consistent. The Tribunal prefers Ms B’s account to the denials and alternative version relied on by Dr Kamel. Ms B was also in a vulnerable position given the power imbalance between their respective grades. She was vulnerable due to these events occurring XXX, and when her earlier complaints to Ms E had not been acted upon. There were a number of instances of inappropriate behaviour during the day which culminated with an admitted act of asking Ms B out for a drink, but as the Tribunal finds a clearly sexually motivated physical assault. Cumulatively, the events on this day were of serious concern and there was a clear sexual motivation behind them.’

14. There were similar concerning findings made by the Tribunal with regards to Patient C and D. In relation to Patient C the Tribunal set out its’ decision in the following way:

> ’63. The totality of the evidence supports Patient C’s claims of what went on during her consultations with Dr Kamel. The Tribunal preferred these compelling accounts to

the somewhat evasive accounts put forward by Dr Kamel in the limited evidence that we have about his version of events.

64. In particular, the Tribunal rejects Dr Kamel's accounts that Patient C had acted inappropriately towards him, telling him she was lonely and had no one; or that she had asked him to come to visit her. The Tribunal considered this was both untrue and an attempt at 'victim blaming'. The Tribunal also rejected Dr Kamel's denials about kissing Patient C's hands, making comments about her nails or rubbing her legs. Patient C's accounts were consistent and compelling. […]

65. Having made its substantive decisions about the evidence relating to Patient C's claims, it is appropriate to deal with a number of features which were 'strikingly similar' between Patient C's complaints and those of Ms A and/or Ms B. Dr Kamel's conduct arose on his first encounter with all three. There was a degree of vulnerability and a power imbalance between the complainants and Dr Kamel. There were a number of distinguishing features of overly familiar comments and questions, some of which had a sexualised undertone. The complainants referred to the touching and kissing of hands. There was a common theme of Dr Kamel sitting with his knees very close to them. The stroking/rubbing up and down of the leg was also similar.

66. All of those features extinguish the claims that Patient C was to blame for the events. Dr Kamel took advantage of Patient C and abused his position. His behaviour was clearly sexually motivated. It clearly had a traumatic impact on Patient C.'

15. Similarly concerning findings were made in accepting Patient D's accounts and finding the related charges found proved:

'83. Patient D's claims have features that are 'strikingly similar' to those set out in relation to Ms A, Ms B, and Patient C. Again, Dr Kamel's conduct arose on his first encounter. There was a degree of vulnerability and a power imbalance between the complainants and Dr Kamel. There were a number of distinguishing features of overly familiar comments and questions, some of which had a sexualised undertone. The touching the stroking/rubbing up and down of the leg was also similar. The Tribunal considered whether there was an innocent explanation in terms of this being part of the medical examination. The Tribunal decided that the totality of what went on casts what might have been a legitimate part of an examination as something more sinister. There was sufficiently cogent evidence to conclude there was a sexualised element to it, and that the persistent phone calls and inappropriate attendance at Patient D's address was 'strikingly similar' to the fear Patient C had that Dr Kamel would turn up at her home.

84. All of those features lead the Tribunal to conclude Dr Kamel took advantage of Patient D and abused his position. His behaviour was clearly sexually motivated.'

16. In its facts determination, the Tribunal went on to decide that Dr Kamel's behaviour towards all four complainants was sexually motivated. That is clearly misconduct which is serious. Such serious misconduct is a gross breach of the trust that should exist between doctor and patient. His conduct towards colleagues was also of serious concern, particularly given the power imbalance between victim and perpetrator. This behaviour would undoubtedly be considered deplorable by fellow practitioners. The findings of fact made by the Tribunal lead to the inevitable conclusion that Dr Kamel had committed serious misconduct.

Impairment

17. Having determined that there was serious misconduct, the Tribunal went on to consider whether Dr Kamel's fitness to practise is currently impaired.

18. Dr Kamel's misconduct towards Patient C and Patient D occurred after he had been given a warning in 2013 by the Trust in relation to his inappropriate behaviour towards Ms A and Ms B. His behaviour towards all four complainants occurred during the currency of, or recent expiry of, various conditions to manage his inappropriate behaviour towards women. The Tribunal decided he was able to act with impunity, in part, because he targeted victims who were vulnerable and/or over whom he had the upper hand in a power imbalance. A reasonable inference could be drawn that their weaker position would make them less likely to complain. The Tribunal considered his behaviour was a calculated abuse of trust and of his position.

19. The Tribunal was further concerned by the history preceding the events in these current charges. Dr Kamel's misconduct followed similar findings by the 2010 Panel. The five victims in that case had similar vulnerabilities and the misconduct arose in similar circumstances. The complaints that had been made by those victims related to events between 2007 and 2009. This Tribunal understands he was subject to chaperone conditions during various times when he was appointed to the Trust where the current complaints arose. The earliest complaint in the charges before this Tribunal are from Ms B, and as the Tribunal now notes in Annex B, this was in March 2012. There was a lapse of only 15 months after the 2010 hearing before Dr Kamel resumed his concerning behaviour pattern towards women. The Tribunal notes that for most of that 15-month period Dr Kamel was suspended by the 2010 Panel, so the lapse occurred within a matter of a few months of him resuming work.

20. This Tribunal bore in mind that it had rejected Dr Kamel's assertions he had made to explain away or deny that the events occurred as claimed. It had concluded that there were parts of his accounts which sought to 'victim blame'. Dr Kamel had decided not to take an active part in the regulatory proceedings and had provided little, if any, evidence of any credible remediation, insight or remorse. Those factors are of concern to the Tribunal as they tend to indicate an unmitigated risk of repetition of further misconduct.

21. The Tribunal considered this was a case of serious gravity. That is due to: a) the complainants' vulnerability; b) 'strikingly similar' features; and c) 'persistence'.

22. The vulnerable nature of the complainants has been set out already by the Tribunal, and it has also detailed the 'strikingly similar' features in how Dr Kamel behaved towards all four of them. There were also striking similarities between this case and the previous findings made in the 2010 decision.

23. There was a persistence of Dr Kamel's behaviour in terms of first pursuing sexually motivated conduct towards his junior colleagues, Ms A and Ms B. He was then warned by the Trust, but he failed to redeem himself because he soon started his sexually motivated behaviour towards Patients C and D.

24. The persistent nature of Dr Kamel's behaviour is also relevant as to the course of misconduct he pursued against Patient D in phoning her inappropriately on various occasions. This was harassing in nature. Of greater concern was his persistence in turning up to her home uninvited on various occasions. His actions towards Patient D in this case was strikingly similar to one of the patients in the 2010 case.

25. The persistence in this case should also be seen in its proper historic context. There is historic persistence because the 2010 case concerned misconduct between 2007 and 2009. There was also a short period of time between the conclusion of the 2010 proceedings and the events that have led to this case.

26. Drawing those themes together the Tribunal notes the following concerns. The strikingly similar features between victims in the current case and the 2010 proceedings is of significant concern. There is a pattern of grooming behaviour as this Tribunal set out when reaching the view that Dr Kamel's behaviour was sexually motivated. The Tribunal's concerns are further amplified when looking at Dr Kamel's persistence. He ought to have reflected on his behaviour and stopped acting in the way that he was. The 2010 decision and suspension clearly did not have any salutary effect on him at all. Neither did the warning he received from the Trust in 2013.

27. All of those factors lead the Tribunal to conclude that Dr Kamel continues to pose a concerningly high risk to female colleagues and patients.

28. The Tribunal considered that he had breached various fundamental tenets of the medical profession through the abuse of his role in relation to his inappropriate and sexually motivated conduct.

29. In the circumstances the Tribunal concluded that Dr Kamel's misconduct was so egregious that a finding of impaired fitness to practise was necessary.

30. The Tribunal decided that a finding of current impairment was necessary to protect, promote and maintain the health, safety and well-being of the public; to promote and

maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession.

31. Accordingly, the Tribunal determined that Dr Kamel's fitness to practise is impaired by reason of his misconduct.

Determination on Sanction - 23/11/2022

1. Having determined that Dr Kamel's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

Submissions

Submission on behalf of the GMC

2. Ms Dawson referred the Tribunal to the relevant paragraphs of the *Sanctions Guidance* (November 2020) (SG) and submitted that Dr Kamel's misconduct was fundamentally incompatible with continued registration and that the appropriate sanction was erasure. Ms Dawson drew the Tribunal's attention to the findings of the 2010 Panel and submitted that the decision of that Panel had not had a salutary effect on Dr Kamel's behaviour. She asserted that his inappropriate and sexually motivated conduct had appeared to have continued immediately after the 2010 Panel decision.

3. Ms Dawson further submitted that despite having been warned by the Trust of the inappropriateness of his behaviour towards Ms A and Ms B Dr Kamel went on to act in a strikingly similar way towards Patient C and Patient D. Ms Dawson asserted that there was a public interest in medical professionals being able to work collaboratively to provide the best care for patients. She stated that Dr Kamel's misconduct towards Ms A and Ms B undermined that trust. Ms Dawson submitted that Dr Kamel had engaged in a calculated abuse of trust in relation to his misconduct towards Patient C and Patient D who were vulnerable patients attending clinical consultations.

4. Ms Dawson submitted that the sanction imposed in this case ought to properly reflect the gravity and persistence of the misconduct that Dr Kamel had engaged in. She submitted that the sanction of erasure was appropriate, proportionate and necessary to protect patients and colleagues and satisfy the requirements of the overarching objective.

The Tribunal's Approach

5. The decision as to the appropriate sanction to impose, if any, was a matter for the Tribunal exercising its own professional judgement. There was no burden or standard of

proof at this stage. In reaching its decision, the Tribunal has given careful consideration to the SG. It has borne in mind that the purpose of a sanction is not to be punitive although it may have a punitive effect. It considered whether or not to impose a sanction and started with the least restrictive.

6. Throughout its deliberations, the Tribunal had taken into account the overarching objective, and applied the principle of proportionality, balancing Dr Kamel's interests with the public interest.

7. The Tribunal had taken into account the evidence already before it and its earlier determinations on the facts and on impairment, the SG and GMP, and the submissions of Ms Dawson on behalf of the GMC.

8. During its consideration of the case at this stage, it became necessary to deal with an evidential discrepancy. That has led to the Tribunal revisiting its fact-finding and impairment decisions for the reasons set out in Annex B.

The Tribunal's Determination on Sanction

Mitigating and Aggravating Factors

9. The Tribunal first considered the mitigating factors. The Tribunal was invited to consider the passage of time since the index events, however, it decided this factor to be of limited relevance when taking all of the surrounding circumstances and history of Dr Kamel's misconduct into account. The Tribunal noted that Dr Kamel had made partial apologies during the Trust investigation interview and in later correspondence. However, when read in their proper context these apologies related to Dr Kamel's version of events which have been rejected by the Tribunal. The Tribunal noted that Dr Kamel qualified in Egypt but noted that any matters regarding cultural difference were not raised by him and that he had been working in the UK since the early 1990s. As such, it did not consider this factor to be relevant. There was limited mitigation in the Tribunal's assessment.

10. The Tribunal then considered the aggravating factors in relation to Dr Kamel's misconduct:

- The Tribunal considered that Dr Kamel had attempted to blame his victims;
- Dr Kamel abused his position of trust in order to engage in sexually motivated behaviour;
- Dr Kamel was in a position of seniority when he targeted his colleagues Ms A and Ms B;
- Patient C and Patient D were vulnerable, and Dr Kamel was aware of their vulnerabilities when he targeted them;
- Dr Kamel had repeated his misconduct on multiple occasions; and

- Similar findings of misconduct had previously been found by the 2010 Panel.

11. Having considered the aggravating and mitigating factors in this case the Tribunal then weighed them in the balance. It concluded that the mitigating factors were far outweighed by the aggravating factors particularly given that this was sexually motivated behaviour and involved the abuse of a position of trust.

12. The Tribunal has set out the salient features of greatest concern in this case in its earlier determinations and relies on key themes at this stage. The Tribunal noted that the sexual misconduct in this case was 'a gross breach of the trust that should exist between doctor and patient. His conduct towards colleagues was also of serious concern, particularly given the power imbalance between victim and perpetrator.' The Tribunal also noted Dr Kamel 'was able to act with impunity, in part, because he targeted victims who were vulnerable and/or over whom he had the upper hand in a power imbalance… his behaviour was a calculated abuse of trust and of his position'.

13. In considering Dr Kamel's accounts, the Tribunal concluded 'there were parts of his accounts which sought to 'victim blame'. Dr Kamel had decided not to take an active part in the regulatory proceedings and had provided little, if any, evidence of any credible remediation, insight or remorse. Those factors are of concern to the Tribunal as they tend to indicate an unmitigated risk of repetition of further misconduct'.

14. In light of its earlier findings, the Tribunal considered the following paragraphs of the SG were of particular relevance at this stage:

> *'17 Patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession... Although the Tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor'*
>
> *'21 However, once the Tribunal has determined that a certain sanction is necessary to protect the public (and is therefore the minimum action required to do so), that sanction must be imposed, even where this may lead to difficulties for a doctor. This is necessary to fulfil the statutory overarching objective to protect the public.'*
>
> *'51 It is important for Tribunals to consider insight, or lack of, when determining sanctions. It is particularly important in cases where the doctor and the GMC agree undertakings or the Tribunal imposes conditions. The Tribunal must be assured that this approach adequately protects patients, in that the doctor has recognised the steps they need to take to limit their practice to remediate.'*
>
> *'52 A doctor is likely to lack insight if they:*

a refuse to apologise or accept their mistakes'

'54 Where the GMC, or another regulator, has previously made findings of impaired fitness to practise and imposed a sanction on the doctor's registration, the Tribunal may wish to consider this as an aggravating factor in relation to the case before it.'

'55 Aggravating factors that are likely to lead the Tribunal to consider taking more serious action include:

…

b failure to work collaboratively with colleagues

…

d abuse of professional position particularly where this involves:

i vulnerable patients

ii predatory behaviour

e sexual misconduct'

15. The Tribunal went on to consider each sanction in ascending order of severity, starting with the least restrictive.

No action

16. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal decided that there were no exceptional circumstances to justify taking no action in this case. In light of the Tribunal's findings and concerns set out in its earlier determinations, it would be wholly inappropriate and contrary to the overarching objective.

Conditions

17. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Kamel's registration. It bore in mind that any conditions imposed should be appropriate, proportionate and workable. The Tribunal has found Dr Kamel's behaviour was sexually motivated misconduct. It also previously set out that '…he was subject to chaperone conditions during various times when he was appointed to the Trust where the current complaints arose.' The victims were two vulnerable patients and two junior colleagues. The Tribunal decided that the imposition of conditions on Dr Kamel's registration would be wholly inappropriate as it would not adequately protect the public and would undermine public confidence. An order of conditions would not properly reflect the seriousness of the misconduct.

Suspension

18. The Tribunal then went on to consider whether imposing a period of suspension on Dr Kamel's registration would be appropriate and proportionate. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbefitting a registered doctor.

19. The Tribunal took account of the SG which indicates circumstances in which it may be appropriate to impose a sanction of suspension, in particular:

> *'92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the Tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).'*
>
> *'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> > *a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest…*
> > *…*
> > *g The Tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour'*

20. The Tribunal was concerned that there had been various interventions to deal with Dr Kamel's inappropriate behaviour. He continued with his misconduct despite a warning from the Trust in 2013 and he had been subject to various forms of conditions to manage risk but still managed to carry on with his behaviour. The Tribunal noted that:

> 'He ought to have reflected on his behaviour and stopped acting in the way that he was. The 2010 decision and suspension clearly did not have any salutary effect on him at all. Neither did the warning he received from the Trust in 2013.'

21. The Tribunal had concluded Dr Kamel had 'breached various fundamental tenets of the medical profession through the abuse of his role in relation to his inappropriate and sexually motivated conduct'. The Tribunal noted that Dr Kamel had provided little, if any evidence of insight, reflection or remediation. This led the Tribunal to conclude 'Dr Kamel continues to pose a concerningly high risk to female colleagues and patients'.

22. In all of the circumstances, the Tribunal concluded that the seriousness of Dr Kamel's misconduct and the continued high risk he posed to colleagues and patients were fundamentally incompatible with continued registration.

23. The Tribunal determined that suspension of Dr Kamel's registration would fail to uphold all three limbs of the overarching objective given the gravity of the repeated and persistent misconduct.

Erasure

24. The Tribunal considered the following paragraphs of the SG to applied to Dr Kamel's case:

> *'107 The Tribunal may erase a doctor from the medical register in any case – except one that relates solely to the doctor's health and/or knowledge of English – where this is the only means of protecting the public.'*
>
> *'109 Any of the following factors being present may indicate erasure is appropriate ….*
>
> *a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*
> *…*
> *d Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
>
> *e Violation of a patient's rights/exploiting vulnerable people …'*
>
> *f Offences of a sexual nature* […]
> *…*
> *j Persistent lack of insight into the seriousness of their actions or the consequences.'*
>
> *'138 More serious outcomes are likely to be appropriate if there are serious findings that involve:*
> *…*
> *b sexual harassment…'*
>
> *'145 Where a patient is particularly vulnerable, there is an even greater duty on the doctor to safeguard the patient. Some patients are likely to be more vulnerable than others because of certain characteristics or circumstances, such as:*
>
> *a presence of mental health issues…'*

'146 Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor'

147 If a doctor has demonstrated predatory behaviour, motivated by a desire to establish a sexual or inappropriate emotional relationship with a patient, there is a significant risk to patient safety, and to public confidence and/or trust in doctors. More serious action is likely to be appropriate where there is evidence of […]*:*

…

c visiting a patient's home without an appointment or valid medical reason.'

'150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.'

25. The Tribunal noted the 'strikingly similar' pattern of misconduct in targeting vulnerable patients to whom he was in a position of trust. That was the situation as regards Patients C and D but also the victims in the 2010 case. The Tribunal regarded Dr Kamel's sexually motivated misconduct to be an abuse of trust and his behaviour towards both Patient C and Patient D to be a predatory course of conduct towards vulnerable patients. The misconduct towards Ms A and Ms B bore 'strikingly similar' hallmarks to Patients C and D, given that they were junior colleagues.

26. The case has a number of aggravating features which make this a flagrant, serious and persistent departure from professional standards. The Tribunal concluded that Dr Kamel's misconduct was fundamentally incompatible with continued registration and determined that the only appropriate and proportionate sanction was one of erasure.

27. Further, the Tribunal concluded that erasure was the only proportionate sanction to protect those in a vulnerable position, to promote and maintain public confidence in the medical profession, and to uphold proper professional standards and conduct for members of the profession.

28. The Tribunal therefore directed that Dr Kamel's name be erased from the Medical Register.

Determination on Immediate Order - 23/11/2022

1. Having determined that Dr Kamel's name should be erased from the register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Kamel's registration should be subject to an immediate order.

Submissions

Submissions on behalf of the GMC

2. Ms Dawson submitted that an immediate order should be imposed upon Dr Kamel's registration.

3. Ms Dawson submitted that an immediate order of suspension should be imposed as Dr Kamel poses a considerable risk to female colleagues and had engaged in predatory behaviour towards vulnerable patients. She stated that, in such circumstances, an immediate order was required to protect public and patient safety and to reflect the public interest in ensuring that such a doctor should not practise.

4. Ms Dawson concluded by emphasising that an immediate order was necessary to protect the public and uphold the overarching objective.

The Tribunal's Determination

5. In reaching its decision, the Tribunal has exercised its own judgement, and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public, is in the public interest, or is in the best interests of the practitioner.

6. The Tribunal had regard to the following paragraphs of the SG:

> *'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor…'*
>
> *'173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

7. The Tribunal determined that due to the serious nature of Dr Kamel's misconduct being fundamentally incompatible with continued registration, an immediate order was

necessary to protect the public, uphold proper professional standards and conduct for members of the profession and to maintain public confidence in the profession.

8. This means that Dr Kamel's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction of erasure, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

9. The interim order will be revoked when the immediate order takes effect.

10. That concludes this case.

ANNEX A – 14/11/2022

Determination on Service and Proceeding in absence

1. Dr Kamel was neither present nor represented at the hearing.

Service

2. Ms Dawson, Counsel, on behalf of the GMC, invited the Tribunal to find, in accordance with Rule 40 and of the GMC (Fitness to Practise) Rules 2004 ('the Rules'), that all reasonable efforts had been made to serve Dr Kamel with notice of this hearing.

3. Ms Dawson submitted that Notice of Hearing was sent to Dr Kamel, in accordance with Rule 34(9) of the Rules, by email by the GMC on 6 October 2022. She stated that, within that 6 October 2022 email the GMC noted the Allegation and gave notice of the draft witness schedule and draft hearing bundle index. Ms Dawson stated that Dr Kamel replied to this email on 6 October 2022 and acknowledged receipt of the attached documents.

4. Ms Dawson further submitted that the MPTS, separately, served a Notice of Hearing by email on 11 October 2022. She stated that Dr Kamel replied to this email on 11 October 2022 and acknowledged receipt.

5. Ms Dawson emphasised that, under Rule 40 of the Rules, and subject to paragraph 8 of Schedule 4 of the Medical Act 1983, Notice of Hearing can be served effectively by email to an address that the doctor has notified the regulator of as an address for communication.

6. Ms Dawson referred to the case of *GMC v Adeogba* [2016] EWCA Civ 162 and reminded the Tribunal that it was the responsibility of the GMC to communicate with the practitioner at the address they have provided.

7. The Tribunal was provided with a copy of a Service Bundle from the GMC. This included screenshots of the contact information held for Dr Kamel on the GMC system, namely his registered postal address, the email correspondence to Dr Kamel, from both the GMC on 6 October 2022 and the MPTS on 11 October 2022, along with his relevant replies, and also his email address. The Service Bundle also included email read receipts.

8. The Tribunal determined that, in the circumstances, given that Notice of Hearing from both the GMC and MPTS had been acknowledged by Dr Kamel, appropriate notice of the Allegation and hearing had been effectively served upon the doctor in accordance with Rule 15 and Rule 40 of the Rules.

Proceeding in Absence

9. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Kamel's absence pursuant to Rule 31 of the Rules.

10. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with caution, balancing the interests of the doctor with the wider public interest.

11. The GMC applied for the hearing to proceed in the Dr Kamel's absence as, despite receiving the Notice of Hearing and the Allegation he had not attended.

12. Ms Dawson submitted that all reasonable efforts had been made to serve Dr Kamel with Notice of the hearing and argued that the provisions within Rule 31 had been complied with by the GMC and the MPTS.

13. Ms Dawson also submitted that the Tribunal should note that Dr Kamel sent a letter to the GMC, dated 24 February 2022, in which he stated that he did not intend to appear before the Tribunal or dispute the Allegation in detail as he had taken the decision to retire from practice in August 2018 and that he had surrendered his licence to practice and had no intention of practising medicine again. Further she submitted that in the letter received from Dr Kamel, dated 24 February 2022, the doctor stated that he could not see the point in attending the hearing.

14. She submitted that an adjournment would not secure the attendance of Dr Kamel, the doctor was aware of this hearing and had, in effect, waived his opportunity to take part. Further, Ms Dawson submitted that, given the nature of the allegations against the doctor, it was in the public interest for the hearing to proceed.

15. In deciding whether to proceed with this hearing in Dr Kamel's absence, the Tribunal carefully considered all the information before it, including Ms Dawson's submissions.

16. Further, the Tribunal had regard to the cases of *R v Jones* [2003] 1 AC HL and *Adeogba*, which outlined the factors which should be taken into consideration before deciding to proceed in a doctor's absence.

17. The Tribunal bore in mind the correspondence that Dr Kamel sent the GMC, dated 22 February 2022, an email sent on 19 July 2022, and email sent on 3 October 2022, and considered that it was clearly the doctor's intention not to attend the hearing.

18. The Tribunal considered that Dr Kamel had expressed on numerous occasions that he did not wish to engage with, or attend, the hearing and concluded that the doctor had voluntarily absented himself from the proceedings.

19. The Tribunal considered that it could not be satisfied, were it not to proceed, that Dr Kamel would attend a hearing at a future date.

20. Furthermore, it considered that, given the serious nature of the Allegation, it was in the public interest that the hearing should proceed.

21. Accordingly, Tribunal determined that it was in the interests of justice for the hearing to proceed in Dr Kamel's absence.

ANNEX B – 23/11/2022

Determination on reconsideration of evidence – facts stage

1. The Tribunal must ensure that its decision is correct in fact and law. In dealing with the sanction stage in camera, the Tribunal had to revisit an apparent discrepancy that arose in the evidence. The Tribunal decided it was appropriate to set out how it has dealt with this matter, for the purposes of transparency. The discrepancy was first dealt with in the facts determination when dealing with Ms B's evidence:

> '38. According to her evidence in the Trust investigation, Ms B told the investigator that Dr Kamel had tried to hold her hands a few weeks before on 19 March 2012. […]
>
> 40. The first point to note is that the reference to March 2012 must be erroneous. The entire GMC statement indicates that her first contact with Dr Kamel was in 2011, and that the first incident took place in March 2011. Aside from that discrepancy, the core of the account has the ring of truth to it. It is a compelling account with the initial formal account recorded in the interview within 18 months of the events. Her account has remained consistent. The Tribunal prefers this account to the bare denial made by Dr Kamel.'

2. The Tribunal's previous conclusion that 'the reference to March 2012 must be erroneous' is incorrect. Dr Kamel was suspended by the 2010 Panel on 30 November 2010 for 12 months. That suspension would have been in force until the end of December 2011 (when allowing for the standard 28-day period for an order to take effect). When cross-referencing Dr Kamel's curriculum vitae, he cites his start date with the Trust as 25 December 2011. That correlates to the period of suspension ending. Dr Kamel was not working for the Trust in March 2011 as Ms B's witness statement references when describing the first incident. That makes her initial reference to March 2012 more likely to be the correct date.

3. The Tribunal having realised its error has gone on to revisit how this might impact on its decision making. The first effect from an evidential perspective is that Ms B's initial account in October 2012 is made much closer in time to the events she complained about. As the events took place in March 2012 this is six months not 18 months later, and therefore only adds to the reliability of her initial account.

4. It is unclear why the March 2011 date arises in her statement. It was signed on 10 March 2016, some three and a half years on from her initial formal complaint. The March 2011 date is consistent throughout the statement, which is likely to have been drafted by GMC lawyers. As such, the Tribunal considers it an error which was not picked up by Ms B. It does not detract from the weight to be attributed to her statement in the Tribunal's view. The Tribunal's assessment of her evidence is not materially affected.

5. However, there is a knock-on effect on charge 2 which relates to 'March 2011'. The Tribunal decided it was not necessary or proportionate to re-open the facts stage to remedy this error. The Tribunal has a statutory duty to exercise its functions in accordance with the overarching objective. The gravamen of charge 2 is the allegation that Dr Kamel acted inappropriately towards Ms B. Dr Kamel has been fully informed of that allegation and made a bare denial of the events. In those circumstances, the Tribunal considers this to be a minor slip type error. Allowing a minor drafting error to lead to a serious charge falling was contrary to the overarching objective. It was open to the Tribunal to amend the allegation if required but it considered it was not necessary to do so. The Tribunal was able to remedy the conflict by taking a purposive approach to dealing with charge 2 by treating the '2011' as a slip error. The Tribunal is able to do so without any injustice. Further, the Tribunal concludes is does not undermine the integrity of its' facts decision. In the alternative, had the Tribunal gone on to formally correct the date in the charge of its own volition it would have found the matters proved for the stated reasons in any event.

6. The Tribunal is satisfied an informed reader would understand the slip error and as such it is not necessary, proportionate or in the interests of justice to amend the facts determination.

Impact on the impairment determination

7. There is a further knock-on effect relating to conclusions the Tribunal drew in its impairment determination. The conclusion that there were only a few months between the end of the 2010 proceedings and Dr Kamel's first inappropriate behaviour towards Ms B was not strictly correct. The passage of time is approximately 15 months. However, the significance of that period of time should be seen in its proper context. Dr Kamel only started working at the Trust from late December 2011 because he was suspended for a year. He goes on to act inappropriately towards Ms B in March 2012. The lapse is still very short and the overall tenor and rationale of the impairment determination, having been carefully revisited by the Tribunal, remains pertinent. As such there is no overall material impact on the Tribunal's rationale in that decision.

8. However, it is in the interests of justice to amend the impairment determination in a limited way as the published version may mislead a reader in terms of the conclusions drawn by the Tribunal at that stage. The Tribunal is entitled to revisit and correct its decisions at any point prior to the conclusion of proceedings. The Tribunal has decided to amend the impairment decision in the manner below.

9. The last three sentences of paragraph 19 are substituted to read:

'The earliest complaint in the charges before this Tribunal are from Ms B, and as the Tribunal now notes in Annex B, this was in March 2012. There was a lapse of only 15 months after the 2010 hearing before Dr Kamel resumed his concerning behaviour pattern towards women. The Tribunal notes for most of that 15-month period Dr Kamel was suspended by the 2010 Panel, so the lapse occurred within a matter of a few months of him resuming work.'

10. References to 'March 2011' relating misconduct towards Ms B by Dr Kamel after the 2010 hearing are amended to read '2012'.

SCHEDULE 1

4 June 2014

9 June 2014

10 June 2014

17 June 2014

2 July 2014

7 July 2014