

PUBLIC RECORD

Dr Sadiq has lodged an appeal against decisions of this Tribunal. While his appeal is considered, Dr Sadiq’s registration remains suspended by virtue of the immediate order.

Dates: 24/07/2023 - 04/08/2023
29/08/2023 – 01/09/2023
06/11/2023 – 10/11/2023

Medical Practitioner’s name: Dr Adnan SADIQ
GMC reference number: 7827457
Primary medical qualification: MD 2020 University of Szeged - Faculty of Medicine

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

Summary of outcome
Erasure
Immediate order of suspension

Tribunal:

Legally Qualified Chair	Ms Alice Moller
Lay Tribunal Member:	Mr David Propert
Medical Tribunal Member:	Dr Candida Borsada
Tribunal Clerk:	Mr Josh Dayco

Attendance and Representation:

Medical Practitioner:	Present, represented (24/07/2023 – 04/08/2023) and (29/08/2023 – 01/09/2023) Not present, not represented (06/11/2023 – 10/11/2023)
Medical Practitioner’s Representative:	Mr Edmund Walters, Counsel, instructed by Kings View Chambers (24/07/2023 – 04/08/2023) and (29/08/2023 – 01/09/2023)

GMC Representative:	Ms Shirly Duckworth, 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 - 01/09/2023

Background

1. Dr Sadiq qualified in 2020 from University of Szeged Hungary. Prior to the events which are the subject of this hearing Dr Sadiq moved to Britain and took up his first medical post in October 2020.
2. At the time of these events Dr Sadiq was practising at the Royal Surrey Hospital.
3. The Allegation against Dr Sadiq is that he sent messages on 18 November 2020 to Ms A encouraging her to ignore Covid-19 rules, and then did a series of unwanted acts, the next day, to Ms A or in her presence.
4. Dr Sadiq is alleged to have used his position as a doctor to gain Ms A's trust (in messages) on 19 November 2020. The Allegation (set out below) asserts that he touched Ms A's vagina, put his hands around her neck, exposed his penis to Ms A, put her hand on it and pushed her head towards his exposed penis, all without Ms A's consent. It is further alleged that Dr Sadiq told Ms A '*you should have sorted it out*', or similar, with reference to his erection.

5. The Allegation then avers that Dr Sadiq sent a number of inappropriate messages to Ms A on WhatsApp between 20 November 2020 and 4 January 2021. This was despite Ms A messaging Dr Sadiq to say that he was '*not her type*'.
6. In addition, it is alleged that Dr Sadiq sent Ms A two photographs on Snapchat, one of him at work and one of a penis, between 20 November 2020 and 4 February 2021. The GMC claim that Dr Sadiq had a sexual motivation in relation to these actions and that some of his behaviour amounted to harassment.

The Outcome of Applications Made during the Facts Stage

7. On the first day of the hearing the Tribunal granted the GMC's application under Rule 36(1)(e) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') for special measures to be put in place during Ms A's oral evidence. The Tribunal's decision, with reasons, is at Annex A.
8. On 27 July 2023 the Tribunal refused the GMC's application under Rule 34 to adduce further evidence. The Tribunal's full decision is at Annex B.
9. On 27 July 2023 the Tribunal refused the GMC's application under Rule 17 to amend paragraph 1 of the Allegation. The Tribunal's decision on the application is at Annex B.
10. On 1 August 2023 the Tribunal partially granted an application under Rule 17(2)(g) by Mr Walters on behalf of Dr Sadiq and found that there was no case to answer in relation to paragraph 1 of the Allegation (only). Mr Walters' *Galbraith* submission in relation to other paragraphs was not accepted. As Dr Sadiq had admitted paragraphs 4 and 5, through counsel, the Tribunal had to determine outstanding paragraphs 2, 6, 7 and 8 of the Allegation. The Tribunal's decision on this 'half-time' application is at Annex C.
11. On 3 August 2023 the Tribunal refused the GMC's application under Rule 17 to amend paragraph 7 and/or 8 of the Allegation. The Tribunal's full decision on the application is at Annex D.

The Allegation and the Doctor's Response

12. The Allegation made against Dr Sadiq is as follows:

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

- ~~1. On 18 November 2020, you encouraged Ms A to breach rules that had been put in place by the government to deal with the ongoing Covid 19 pandemic, by sending the messages set out in Schedule 1.~~

~~Deleted following a successful application under Rule 17(2)(g)~~

2. On 19 November 2020:

- a. prior to meeting Ms A you used your position as a doctor to try to gain Ms A's trust by sending the messages set out in Schedule 2;

To be determined

- b. having met with Ms A at the XXX, you:

- i. inserted your fingers into Ms A's vagina;

To be determined

- ii. put both your hands around Ms A's neck and applied pressure;

To be determined

- iii. exposed your penis to Ms A by removing it from your trousers;

To be determined

- iv. placed Ms A's hand on your penis;

To be determined

- v. grabbed Ms A's head and pushed it towards your exposed penis;

To be determined

- vi. said to Ms A '*you should have sorted it out*', or words to that effect, referring to your erection.

To be determined

3. Ms A did not consent to your actions as set out in paragraphs 2(b)(i), 2(b)(ii), 2(b)(iii), 2(b)(iv) and 2(b)(v) above.

To be determined

4. Between 20 November 2020 and 4 January 2021, you sent messages to Ms A via WhatsApp, the details of which are set out in Schedule 3.

Admitted and found proved

5. The messages referred to in paragraph 4 above were sent despite Ms A confirming to you that you were not her type.

Admitted and found proved

6. Between 20 November 2020 and 4 February 2021, you contacted Ms A via Snapchat and sent her photographs of:

a. yourself at work;

To be determined

b. a penis.

To be determined

7. Your conduct referred to in paragraphs 1, 2, 4 and 6 above was sexually motivated.

Paragraph 1 deleted following a successful application under Rule 17(2)(g)

To be determined

8. Your conduct referred to in paragraphs 4, 5, 6 and 7 above amounted to harassment as defined in Section 1(1) Protection from Harassment Act 1997, in that you engaged in a course of improper, oppressive and/or unreasonable conduct causing alarm and/or distress to Ms A when you knew, or ought to have known, that your conduct amounted to harassment.

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

The Admitted Facts

13. At the beginning of this hearing, during the facts stage, Dr Sadiq made admissions through counsel in accordance with Rule 17(2)(d) to two paragraphs of the Allegation. The Tribunal announced that paragraph 4 and paragraph 5 had been admitted and found

proved under Rule 17(2)(e).

Witness Evidence

14. The Tribunal received evidence from the following GMC witnesses:

- Ms A, by video link.
- Friend X, by video link.
- Friend Y, by video link.

15. The Tribunal also considered signed written statements adduced by the GMC from the following witness who did not give oral evidence:

- DC B, officer in charge of the criminal investigation against Dr Sadiq.

16. Dr Sadiq provided a signed witness statement dated 28 June 2023 and then gave oral evidence at the hearing. He answered all questions from counsel and from the Tribunal.

Documentary Evidence

17. The Tribunal took account of documentary evidence adduced by Dr Sadiq and the GMC. This included:

- Transcript of Ms A's Police interview dated 4 February 2021.
- WhatsApp Messages between Dr Sadiq and Ms A.
- WhatsApp call log between Dr Sadiq and Ms A.
- Map of XXX.
- Documents provided by Surrey Police dated 25 December 2021.
- Ms A's supplemental statement dated 19 March 2023.
- Agreed facts between the GMC and Dr Sadiq dated 18 July 2023.
- Special measures agreed by counsel dated 24 July 2023.
- Further agreed facts between the GMC and Dr Sadiq dated 24 July 2023.
- Screenshots of a map showing XXX.
- Annotated map of XXX.

Advice from the LQC on the Tribunal's Approach

18. At this stage the Tribunal is required to determine whether the facts alleged, or any of them, have been proved. After deliberating in private, the Tribunal will announce its decision. The burden of proving disputed facts is on the GMC. Dr Sadiq does not need to disprove anything in the Allegation. He is only obliged to answer specific allegations against him and no others: *Roomi v GMC* [2009] EWHC 2188.
19. The standard of proof required is the civil standard, the balance of probabilities. *Re B children* [2008] UKHL 35 confirms that, while the seriousness of an allegation, or its consequences, may necessitate more careful consideration of the evidence, this does not affect the test to be applied. The more improbable it is that Dr Sadiq would have behaved as alleged, the more cogent or credible the evidence may need to be to prove on the balance of probabilities that he did as alleged: *Virdee v GPhC* 2015 EWHC 169. Where an event is inherently improbable, it may take better evidence to prove it. This goes to the quality of evidence: *Byrne v GMC* [2021] EWHC 2237.
20. No adverse inference should be drawn by the Tribunal against Dr Sadiq due to identification of any witness as vulnerable, or the implementation of special measures. The Tribunal has admitted evidence considered fair and relevant to the case. But hearsay may be given less weight than direct evidence, as it has not been tested in cross-examination. Clear reasons should be given if the evidence of one witness is preferred over that of another in relation to any key issue in dispute. Reasons for factual findings should address the main points by both legal representatives: *GMC v Lamming* [2017] EWHC 3309.
21. Submissions are not evidence and the Tribunal should draw its own conclusions from evidence it has seen and heard. It is for the Tribunal to identify any discrepancies in conflicting accounts of events and then to decide whether to accept the evidence of Dr Sadiq or Ms A on key issues in dispute in relation to each specific allegation. A Tribunal may accept unsupported evidence from any witness, but such an account should be given more weight if it has been tested in cross-examination. Independent corroboration may be considered to increase the likelihood of a particular assertion being accurate.
22. An honest witness may be mistaken about the motives of another person. The Tribunal should avoid any assumptions about how a victim (or a perpetrator) of an alleged sexual act ought to have behaved at the time, or later in evidence. A truthful (or lying) witness

may exhibit distress or seem impassive or emotionless. The Tribunal should not assess a witness's credibility exclusively on demeanour when giving evidence: *Dutta v GMC* [2020] EWHC 1974. It should analyse the evidence fairly and impartially. It should consider all the evidence before drawing conclusions about any witness's credibility.

23. The Tribunal may take account of conflicts in evidence between witnesses, denials or reasons why an allegation could not be true: *Khan v GMC* [2021] EWHC 374. In *Squier v GMC* [2015] EWHC 299 Ousley LJ reminds tribunals that judgments in one forum are not necessarily conclusive, or even admissible, in another. The Tribunal must find for itself the facts necessary to reach a conclusion, not rely on the conclusions of any previous inquiry as evidence of the truth, or otherwise, of allegations. Conclusions of a police investigation may only provide background information.
24. The Tribunal may take account of hearsay evidence. If a witness is not questioned the Tribunal may give their evidence less weight as they will not have been challenged in relation to their statements. There is a risk that **any** witness may misreport words said to them on a previous occasion, or the sense of what was said, and that danger will be compounded if there is hearsay. The Tribunal is entitled to draw inferences or reach common sense conclusions. The Tribunal must distinguish between reaching conclusions based on reliable evidence, on one hand, and speculation where there is no, or insufficient, evidence on the other. The Tribunal cannot speculate as to matters on which there is insufficient evidence.
25. Although it does not provide a defence, good character is an important factor able to assist Dr Sadiq in two ways: in relation to the credibility of his account as well as the propensity to act as alleged. Good character is a positive feature of Dr Sadiq which the Tribunal will take account of, when considering whether his evidence on the Allegation is accepted as credible. In addition, the fact that he has no previous adverse regulatory findings, cautions or convictions goes to the likelihood of him acting as alleged by the GMC.
26. *Wisson v HPC* [2013] EWHC 1036 confirms that good character is relevant when the credibility of a doctor is in issue. Judging the weight to be given to Dr Sadiq's good character and its relevance at the Facts stage is a matter for the Tribunal.
27. Where an earlier complaint has been made, that is admissible as evidence of its truth assuming that it was not made after a threat or promise. The Tribunal should consider the context of the complaint, any explanation for delay in going to the police, its

consistency with subsequent complaint, or inconsistency. The Tribunal is entitled to consider any previous complaint in assessing the credibility of an account of events. An earlier complaint may be used to rebut assertion of recent fabrication.

28. The Tribunal must consider each paragraph of the Allegation separately to be able to make individual findings. However, if one part of the Allegation is found proved, the Tribunal is entitled to take account of that, when considering propensity to act as alleged in other parts of the Allegation. Although it is open to the Tribunal to take account of all the evidence adduced in relation to each allegation, *Hanson* [2005] EWCA Crim 824 cautions that propensity (where found) is only one relevant factor. The Tribunal must assess its significance in the light of all the other evidence in the case.
29. Propensity cannot be regarded as a satisfactory substitute for direct evidence: *R v Mitchell* [2016] UKSC 55. The Supreme Court described propensity as an incidental issue. The Court of Appeal in *Freeman & Crawford* [2008] EWCA Crim 1863 at also addresses the question of cross-admissibility of evidence.
30. A Tribunal is not required to determine whether it is satisfied, on the evidence, to find one paragraph in the Allegation proved before it can move on to use that evidence to deal with any other paragraph in the Allegation: that approach would be too restrictive. The Tribunal has to reach a conclusion on each paragraph separately, but it is entitled, in determining whether or not each paragraph is proved, to have regard to relevant evidence in regard to any other paragraph. It may consider the evidence in the round.
31. The best evidence of sexual motivation may be the behaviour itself. It may be appropriate to draw an ‘irresistible’ inference of sexual motivation when the only way the behaviour could be perceived was as overtly sexual and in the absence of any other plausible innocent explanation: *Haris v GMC* [2021] EWCA Civ 763. In deciding whether Dr Sadiq’s actions were sexually motivated or not, the Tribunal may consider Dr Sadiq’s and Ms A’s evidence, as well as messages between them. However, the Tribunal should also take account of Dr Sadiq’s good character: *Arunkalaivanan v GMC* [2014] EWHC 873. A finding that a doctor’s actions were sexually motivated depends not on direct evidence, but on an inference to be drawn from primary facts and surrounding circumstances. Ordinary words or phrases in the Allegation such as ‘grabbed’ or ‘sexually motivated’ should be given their natural meaning.
32. The Tribunal must consider, separately, the evidence in relation to each allegation. If it finds one allegation proved, or not proved, it does not follow that the Tribunal will reach

the same conclusion in relation to other allegation/s. The Tribunal must be satisfied that each element of an allegation has been made out before finding a specific allegation proved.

33. Comments from both counsel on this legal advice were considered. Ms Duckworth made comments in relation to the range of responses a witness may have in relation to an alleged sexual assault. Mr Walters made submissions in relation to the paucity of evidence of harassment. These were not inconsistent with legal advice given by the LQC, which was accepted by the Tribunal and counsel.

The Tribunal's Analysis of the Evidence and Findings

34. The Tribunal considered each contested paragraph of the Allegation separately and evaluated all relevant evidence to make its determinations. The Tribunal started with objective facts shown by contemporaneous documents. It assessed oral evidence from Dr Sadiq and other witnesses in the context of written evidence.
35. The GMC accepted that Dr Sadiq was a person of good character. The Tribunal took account of this when assessing the truthfulness of his oral and written evidence to the Tribunal, and in relation to the likelihood of his having acted in the way alleged by Ms A.

Paragraph 2(a) of the Allegation

36. Dr Sadiq did not dispute sending the messages set out at Schedule 2. The Tribunal took account of evidence from Dr Sadiq and Ms A to assess his motivation and then sought to infer Dr Sadiq's intentions from the words used in messages to Ms A.
37. The Tribunal had to consider whether, on 19 November 2020, Dr Sadiq used his position as a doctor to try to gain the trust of Ms A before meeting her, by sending the messages set out in Schedule 2. Medicine is a profession that has considerable status and the Tribunal considered that this may be used to gain trust.
38. The fact that Ms A already knew that Dr Sadiq was a doctor was not in dispute. Within three minutes on 19 November 2020, Dr Sadiq sent messages to Ms A alluding to his profession, telling Ms A that she could trust him, claiming to be 'nice' and saying that there was no need to worry.

12.45hrs *“I’m a doctor, I save lives”*
12.45hrs *“You can trust me”*
12.46hrs *“I’m a nice guy”*
12:46hrs *“you don’t have to worry”*

39. The Tribunal took account of the content of the messages as well as their timing and proximity to one another. At 12:46 the recipient of such messages would clearly be able to recall what had been sent at 12:45 if reading immediately after they were sent, as people do when notifications are enabled. If reading these messages at a later point, this series of messages would be read all at once. The content of the messages would be absorbed as one long message, so that the reader would naturally link the content of each. Dr Sadiq implied that Ms A should trust him. The inference to be drawn by Ms A was that Dr Sadiq was well-motivated, saved lives, and would be kind or ‘nice’.
40. Ms A’s supplemental witness statement said: *‘When Dr Sadiq messaged on WhatsApp “you can trust me I’m a doctor” this made me trust him as I believed what he was saying’*. The GMC relied on this assertion by Ms A to argue that Dr Sadiq attempted to gain Ms A’s trust by saying he was a doctor who saved lives and a ‘nice guy’.
41. The Tribunal took account of Dr Sadiq’s answers in cross-examination. Dr Sadiq claimed that Ms Duckworth was taking his messages out of context when she asked questions about them. He said that he wanted to reassure Ms A that he had *“no sinister intention”*, and that Ms A already knew he was a doctor. When Dr Sadiq was asked if he was trying to gain Ms A’s trust, he said that he had not invited her home, so raised a topic about which he had not been asked. Later in cross-examination Dr Sadiq denied sending the messages to gain trust.
42. The Tribunal did not accept Dr Sadiq answers on this point as his denial of trying to gain trust was not credible in the context of his message: *‘you can trust me’*. The Tribunal concluded that the GMC had discharged the burden on it to prove that Dr Sadiq was more likely than not to have used his position as a doctor on 19 November 2020 to try to gain the trust of Ms A before meeting her, by sending the messages set out in Schedule 2. Therefore, on a balance of probabilities, the Tribunal found paragraph 2(a) of the Allegation proved.

Paragraph 2(b) of the Allegation

43. The Tribunal looked first at documentary evidence. Then it took account of contradictions in evidence: any assertions undermined by other witnesses, as well as internal inconsistencies and implausible claims.
44. As she herself clearly accepted, Ms A was unable clearly to recall an exact sequence of events or to give precise timings in answer to questions in cross-examination. There was a discrepancy between Ms A and Friend Y in relation to the XXX car park and whether Ms A was in Dr Sadiq's car at any stage. Also, Ms A could not be sure whether she was standing or kneeling at one key point during the events in question. However, Ms A said that the situation was very distressing. It was also dynamic, according to both of them. This could have impacted on Ms A's ability to recall precise details.
45. The Tribunal was told that Ms A took notes to the police interview as an *aide memoire*, some of which had been written by her mother the night before at Ms A's request. The fact of the notes not being provided in evidence was one of many issues to be taken into account when assessing the veracity of Ms A's account.
46. Friend Y's evidence only partially supported the evidence of Ms A. Only Friend Y mentioned a XXX carpark, not Ms A. It was also only Friend Y who indicated that Ms A was in Dr Sadiq's vehicle. There were contradictions between their two accounts, indicating that one or other was in error. Friend Y may have made an unwarranted assumption, or Ms A may have been wrong about how long the incident lasted. So, the Tribunal considered that Friend Y was not wholly corroborative of Ms A, nor was Friend Y independent of Ms A.
47. As to the alleged digital penetration of Ms A's vagina, Ms Duckworth submitted that Ms A was in shock, so only realised what was happening when Dr Sadiq's digits were removed. Ms A described a 'freeze' response in oral evidence. Ms Duckworth said Ms A should not be deemed unreliable because she was unable to describe the mechanism of insertion. The Tribunal considered all evidence and submissions in assessing Ms A's account.
48. It was not in dispute that Ms A misread 'sorry for not strangling' as 'sorry for strangling'. Ms A said this text gave her confidence that Dr Sadiq may be convicted of sexual assault. The Tribunal did not consider this evidence to be probative, or exculpatory.
49. In her supplementary witness statement, Ms A said she could not recall if she had been pushed onto her knees or remained standing. There was also a lack of clarity as to

exactly how Dr Sadiq was said to have placed Ms A's hand on his penis and then grabbed her head with both hands. The Tribunal considered that gaps may affect the credibility of Ms A's account, but it had to be analysed in context.

50. Telephone records showed that Friend Y was incorrect to say that Ms A returned about 10pm and that she had been out for about three hours. In cross examination Friend Y was asked questions about XXX and XXX location, but there was no challenge to Friend Y's evidence that Ms A had spoken of digital vaginal penetration, Dr Sadiq exposing his penis, requesting sex and putting his hands around Ms A's neck in a 'sexual' way. Where their accounts differed, the Tribunal preferred the account of Ms A as it was more consistent with documentary 'phone records and other relevant evidence.
51. Police took a witness statement from Friend Y on 19 August 2021 and the GMC took a statement on 11 July 2023, a couple of years after the time in question. So Friend Y could not be expected to have precise recall of events that did not concern him directly. The Tribunal considered that the evidence of Friend Y was not entirely accurate, but it did partially support Ms A's account and it could be said to rebut any suggestion of recent fabrication of sexual assault by Ms A.
52. Friend X's timeline was also criticised by counsel, but the GMC relied on Friend X's memory of being told of an incident by a pond or small lake, that there was "a lot of stuff" that Ms A did not want to do, and it sounded like Dr Sadiq was being forceful asking for "blow jobs". Taken as a whole, the evidence of Friend X was partially supportive of Ms A's account of events. Discrepancies between Friends X or Y and Ms A tended to indicate that one or more witnesses lacked the ability clearly to recall every detail of conversations at this time. This is natural for people who do not make a contemporaneous, verbatim record of who said what at the time. Such flaws in evidence may indicate an absence of collusion, although the Tribunal was aware that Ms A considered X and Y to be friends.
53. Strangulation was explicitly mentioned in a WhatsApp message on 3 February 2021. Dr Sadiq gave evidence that this was one of Ms A's sexual kinks, but Ms A said it was not so. In evidence Dr Sadiq initially denied that this was his sexual kink, but then accepted he likes choking in a sexual context, provided there is consent.

Paragraph 2(b)(i) of the Allegation

54. The Tribunal had to determine whether or not Dr Sadiq inserted his fingers into Ms A's vagina on 19 November 2020 after meeting her on XXX. It took account of documents including witness statements and oral evidence:
55. Ms A had earlier referred to a hole in the back of her trousers, which a friend had pointed out to her. In cross-examination, Mr Walters asked Ms A if she felt Dr Sadiq's hand or fingers go inside her trousers. Ms A replied: "I was in a freeze response". Ms A added that she recalled: "the feeling of him taking his fingers out from inside me."
56. The Tribunal considered Ms A's oral evidence to be consistent with that given to police.
57. Dr Sadiq denied sexual assault to police, GMC and Tribunal. He speculated that Ms A was making a false complaint about him because he had to get up early for work next day and did not want to spend any longer with Ms A on 19 November 2020. Dr Sadiq told the Tribunal that Ms A may have had a sense of 'rejection'.
58. When Ms Duckworth asked Dr Sadiq why he had messaged Ms A about her being 'uncomfortable' he said that he had *"had to leave early so Ms A may have had a sense of rejection... I explained that I could not spend more time... maybe Ms A was disappointed."* Dr Sadiq was asked why there was no reference to rejection or disappointment in his messages to Ms A. His response was that he thought *"Ms A did not expect me to leave so early... Ms A wanted to go somewhere... I wanted to make it clear my intention was just to meet and talk... at that moment I realised Ms A was not expecting the same... the atmosphere suddenly changed so I wanted to make sure Ms A did not take it personally that I was leaving."*
59. The Tribunal considered the messages between Dr Sadiq and Ms A to be more consistent with the account of events from Ms A, that Dr Sadiq had pursued contact with Ms A, as opposed to winding up their meeting before Ms A was ready on the basis that he was anxious to be able to get up early for work. His persistent messages to Ms A subsequently far outnumbered Ms A's responses to him and were characterised by his wanting continued contact with her, a desire not reciprocated. Ms A eventually requested him to cease contact after he had sent a series of sexual messages to Ms A. The exchange, when assessed in its entirety does not convey any sense of Ms A being keen on him or believing that Dr Sadiq had rejected her. Dr Sadiq's recent claim of a '[XXX]' was implausible on a cold, dark evening during lockdown in November 2020.

Based on Ms A's account of events the Tribunal determined that the GMC had proved paragraph 2(b)(i).

Paragraphs 2(b)(ii), (iii), (iv) and (v) of the Allegation

60. The Tribunal considered whether Dr Sadiq had placed both hands around Ms A's neck and applied pressure on 19 November 2020. The Tribunal also considered whether Dr Sadiq had exposed his penis to Ms A by removing it from his trousers, placed Ms A's hand on his penis and/or grabbed Ms A's head and pushed it towards his exposed penis.
61. In her statement, Ms A said that she wanted to meet at a café close to XXX. Although it was shut, there were lights and benches in the area and it was easy to find. According to Ms A, Dr Sadiq then called to say he was in the vicinity. Ms A said *'I felt the call was unexpected and I felt a bit forced into seeing him as he was already there.'* They then agreed to go for a walk and Ms A went to meet him outside the XXX building just after 7pm.
62. The Tribunal found plausible Ms A's account that he asked her about her 'kinks' and that Ms A told Dr Sadiq she did not like strangling. The Tribunal accepted her evidence in relation to what followed as it was consistent on key assertions, albeit not on every peripheral detail.
63. The Tribunal accepted Ms A's allegations, as likely to be true, that Dr Sadiq removed his penis and placed Ms A's hand on it, that he placed both hands on her neck 'pressuring' her throat and pushed Ms A's head towards his exposed penis, before asking if he could 'put it in' or words to that effect. The Tribunal accepted Ms A's evidence that Dr Sadiq's unwanted actions had made her uncomfortable, but that she had not acknowledged the seriousness of his conduct that evening and that it had taken her a while to absorb and to recognise what had happened. In answer to a Tribunal question about how she felt after meeting Dr Sadiq on 19 November, Ms A said:

"I think I felt weirdly relieved that it hadn't gone further... I was very worried that something was going to happen in that moment... I genuinely feared for my life and was glad to escape... it took me a while to realise that what had happened was not ok... at the time I felt a lot of relief even although something bad did happen."

The Tribunal found Ms A's description of her "relief" after a perceived narrow escape to be plausible.

64. The Tribunal considered all messages sent by Dr Sadiq to Ms A. Many were sexual in nature, such as his idea to 'lick u dry'. Dr Sadiq denied that he was attracted to Ms A in evidence to the Tribunal. However, the Tribunal was aware that an ability or inclination to have sex need not be linked to desire or affection. Dr Sadiq told Ms A that he wanted a 'fwb' not a girlfriend. It was not in dispute that 'fwb' is an acronym for friend with (sexual) benefits. Thus Dr Sadiq was telling Ms A that his aim was to get sexual benefits without additional obligations. The messages sent to Ms A said explicitly that he wanted to 'lick u dry' and explore kinks.
65. The Tribunal took some account of evidence from Friend X, in as far as it tended to suggest that Ms A's allegations were not recently fabricated:

'I remember [Ms A] also told me that Dr Sadiq had showed her his penis and kept asking her to touch it...'

66. The Tribunal considered that Dr Sadiq's explicit messages to Ms A, and Friend X's recollection of what Ms A told him had happened, both supported the account Ms A gave to police, confirmed in her evidence to the Tribunal.
67. The Tribunal was able to draw inferences from messages, transcripts of police interviews and statements, to use oral evidence to subject documents to critical scrutiny and to consider the motivation of each witness and the veracity of their evidence. The Tribunal did not give weight to the demeanour of any witness.
68. The Tribunal found Dr Sadiq to be an evasive witness, who frequently responded to questions by giving unrelated information, for example when he spoke about not inviting Ms A home when asked about his attempt to gain trust. Dr Sadiq said: "not at all... I never told Ms A she must come to my place."
69. At times Dr Sadiq gave answers that were too implausible to be truthful. He also contradicted himself in oral evidence, in relation to his predilections and other topics. In cross-examination Dr Sadiq said he did not want to spend long with Ms A but in messages he said he wanted to watch a movie. He tried to reconcile this by telling the Tribunal they could stop in the middle: 'no need to take it literally.' He also said that they could watch the movie together, but would not be alone as they would be with his

housemates using a laptop outdoors, and that they would not be alone in his room watching a movie as he *'did not have a TV'*. When Dr Sadiq was asked if holding hands with Ms A indicated affection or intimacy, Dr Sadiq said: *"Neither, at least from my part. She was holding my hand... she started holding my hand and we continued as there was mutual consent."* As to the kiss, his evidence was: *"I did not kiss her. Her face was coming towards mine."* Then he said: *"We both kissed at the same time... because her face was coming towards me and I didn't want her to feel awkward."* Dr Sadiq estimated that the kiss lasted about three to four minutes.

70. In cross-examination Dr Sadiq answered questions from GMC counsel about how many people were around. He said: *"it was busy, not empty. I did see some people about... there were random [XXX] too."*
71. On the second day of his evidence, Dr Sadiq was asked about a comment he made on the first day of his evidence. Ms Duckworth asked him if he recalled that he said one of Ms A's kinks was liking to be choked. Dr Sadiq replied *"no I do not recall."* Ms Duckworth asked *"was choking in fact your kink or fetish, not that of Ms A?"*. He said *"no, it was not."* Ms Duckworth then asked him to clarify his answer on the first day of his evidence: *"I have no physical experience of strangling"*. Dr Sadiq responded that he had said something like that. He was asked about his experience and he told the Tribunal: *"I do not have any strangulation experience"*. Ms Duckworth then asked *"what about your experience of choking, what would be your answer?"*, Dr Sadiq replied: *"maybe experience with my sexual partner, with mutual consent."* Ms Duckworth asked Dr Sadiq if he wanted to choke Ms A as part of being sexually dominant over her. Dr Sadiq replied *"incorrect, we were not at that stage."*
72. The Tribunal considered Dr Sadiq to have been reluctant to accept that he liked 'choking' and found his assertion that Ms A had a strangulation 'kink' to be highly implausible. On all key issues in dispute relating to paragraph 2 of the Allegation, the Tribunal accepted Ms A's evidence, not that of Dr Sadiq. The Tribunal concluded that the GMC had proved paragraph 2(b)(ii), (iii), (iv) and (v) of the Allegation.

Paragraph 2(b)(vi) of the Allegation

73. The Tribunal considered whether Dr Sadiq, on 19 November 2020, having met Ms A at the XXX, he told Ms A *'you should have sorted it out'*, or words to that effect, referring to his erection.

74. The Tribunal considered the most contemporaneous evidence from Ms A, which was her Police interview. She said: *‘When I walked off, um, he had a boner and could see it through his trousers and he said something about how I should have sorted it out or something. I can’t remember.’*
75. The Tribunal considered Ms A’s evidence to be both truthful and accurate. Therefore, on the balance of probabilities, the Tribunal determined paragraph 2(b)(vi) of the Allegation proved.
76. After analysing all evidence, the Tribunal concluded that Ms A had provided a credible account on the main allegations, or core assertions. Answers in her police interview were consistent with Ms A’s statement to the GMC as well as evidence to the hearing. The Tribunal considered that Ms A showed a commitment to accuracy by saying ‘I think’ when unable to be certain of an answer. To acknowledge gaps in memory can be an honest acknowledgement of an inability to recall a specific point.

Paragraph 3 of the Allegation

77. The Tribunal considered whether or not Ms A gave consent to Dr Sadiq’s actions in paragraphs 2(b)(i-v) of the Allegation. Although Ms A said she had kissed Dr Sadiq back when he kissed her, that did not amount to implied consent for any other sexual contact. The Tribunal analysed oral evidence in the context of messages between Dr Sadiq and Ms A and other documentary evidence.
78. Ms A accepted that their kiss was mutual, having voluntarily met up with Dr Sadiq. However, Ms A said that she did not consent to any other sexual activity. The Tribunal considered Ms A to have provided a consistent account on the main allegations, or core assertions, when comparing answers in her police interview with her statement to the GMC as well as evidence to the hearing.
79. In contrast, the Tribunal found Dr Sadiq to have given an inaccurate account in relation to strangulation, numbers of people in the vicinity and interpersonal dynamics between himself and Ms A. His overall account lacked veracity.
80. Dr Sadiq said he was not looking for *‘anything serious’*, that he was *‘open for anything’* but also that he was not attracted to Ms A or aroused by their kiss. His shifting accounts of events were considered implausible. His attempt to convince the Tribunal that it was

Ms A who liked strangulation, not him, was unsuccessful. Dr Sadiq claimed that he was only saying what he thought Ms A wanted to hear when he messaged to say that he liked their kiss. This apparent disregard for truth cast further doubt on the veracity of his evidence.

81. Dr Sadiq's reaction to being asked to leave Ms A alone, was to say: *'U should respect my decision that I still want u'*. This concerned the Tribunal as it appeared to indicate a disregard for Ms A's indication that she did not want contact. Dr Sadiq refers to his desire as a 'decision' as if his unreciprocated desire should be fulfilled by Ms A, whether she wanted to or not. This message indicated a lack of concern or respect for what Ms A wanted. His apparent disregard for Ms A's wishes added to the likelihood of his acting as alleged. The Tribunal concluded that lack of consent would not necessarily stop Dr Sadiq acting as alleged, so consent cannot be assumed from the fact of sexual contact. The Tribunal accepted Ms A's consistent account that she had not provided consent. The Tribunal found paragraph 3 of the Allegation proved to the civil standard.

Paragraph 6 of the Allegation

82. The Tribunal considered whether Dr Sadiq contacted Ms A on Snapchat and sent two photographs, of Dr Sadiq at work and a penis, to Ms A, between 20 November 2020 and 4 February 2021. In order to prove this the GMC would have to show that both photographs were sent to Ms A from Dr Sadiq.
83. Ms A gave evidence that she had received a photograph of a penis, which had been given to the police. The GMC should have been able to obtain this and to adduce it in evidence. However, it was not provided. In view of the uncertainty as to the sender of such unsolicited images, as well as the prevalence of such images on social media, the Tribunal did not consider that the GMC had proved that it was more likely than not to have come from Dr Sadiq.
84. Therefore the Tribunal found paragraph 6 of the Allegation not proved.

Paragraph 7 of the Allegation in relation to paragraph 2(a)

85. The Tribunal considered whether Dr Sadiq conduct in paragraph 2(a) of the Allegation was sexually motivated, taking account of *Haris*. The best evidence of a sexual motivation may be the behaviour itself. It may be appropriate to draw an inference when the only

way the behaviour could be perceived was as overtly sexual and in the absence of any other plausible innocent explanation.

86. The Tribunal considered that Dr Sadiq had used his professional status as a doctor to gain Ms A's trust so that they could meet up for a sexual liaison of some kind. In view of his actions towards Ms A, the Tribunal concluded that Dr Sadiq was focused on gratifying his own sexual urges. Dr Sadiq did not provide a plausible explanation to the Tribunal for his attempt to gain the trust of Ms A other than to pursue sexual gratification in the short term or to pursue a sexual relationship in the future.
87. The Tribunal concluded that the GMC had discharged the burden on it to prove, to the civil standard, paragraph 7 of the Allegation in relation to paragraph 2(a).

Paragraph 7 of the Allegation in relation to paragraph 2(b)

88. The Tribunal considered whether Dr Sadiq's conduct in paragraph 2(b) of the Allegation was sexually motivated.
89. The Tribunal found as fact that Dr Sadiq, without consent, inserted fingers into Ms A's vagina, put both hands around Ms A's neck and applied pressure, exposed his penis to Ms A and placed her hand on it, grabbed Ms A's head and pushed it towards his exposed penis and told Ms A '*you should have sorted it out*'. There is no other plausible explanation for such actions other than sexual motivation.
90. The Tribunal found that Dr Sadiq's unwanted actions were made in pursuit of sexual gratification (for him) or in pursuit of a future sexual relationship.
91. Therefore, the Tribunal found paragraph 7 of the Allegation in relation to paragraph 2(b) proved.

Paragraph 7 of the Allegation in relation to paragraph 4

92. The Tribunal considered whether Dr Sadiq's conduct in paragraph 4 of the Allegation was sexually motivated.

93. The Tribunal again considered the messages sent by Dr Sadiq. Although Ms A sent a message to tell Dr Sadiq that he was not her type, Dr Sadiq persisted in contacting Ms A with messages containing sexual references and innuendo.
94. The Tribunal considered that Dr Sadiq was focused primarily on gratifying his desires, as opposed to pursuing any other relationship, taking account of his treatment of Ms A. Dr Sadiq did not provide a credible explanation to the Tribunal for persistent messages to Ms A other than in pursuit of his own sexual gratification or future sexual contact.
95. Therefore, the Tribunal found paragraph 7 of the Allegation in relation to paragraph 4 proved.

Paragraph 7 of the Allegation in relation to paragraph 6

96. The Tribunal did not find paragraph 6 of the Allegation proved. Therefore, it could not find paragraph 7 in relation to paragraph 6 proved.

Paragraph 8 of the Allegation

97. The Tribunal considered whether Dr Sadiq's conduct referred to in paragraphs 4, 5, 6 and 7 of the Allegation amounted to harassment as defined in Section 1(1) Protection from Harassment Act 1997. This alludes to a course of improper, oppressive and/or unreasonable conduct causing alarm and/or distress when it ought to have been known that the conduct amounted to harassment.
98. Dr Sadiq sent numerous unwanted messages to Ms A. It would have been feasible to block such messages or not to respond at all. The fact that Ms A took neither course of action made it difficult for the GMC to prove that Dr Sadiq ought to have known that his persistent messages amounted to harassment.
99. The Tribunal did not consider that the GMC had discharged the burden on it to prove harassment, as defined in the Act. The Tribunal found paragraph 8 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

100. The Tribunal has determined the facts as follows:

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

- ~~1. On 18 November 2020, you encouraged Ms A to breach rules that had been put in place by the government to deal with the ongoing Covid 19 pandemic, by sending the messages set out in Schedule 1.~~

~~Deleted following a successful application under Rule 17(2)(g)~~

2. On 19 November 2020:
- a. prior to meeting Ms A, you used your position as a doctor to try and gain Ms A's trust by sending the messages set out in Schedule 2;
Determined and found proved
 - b. having met with Ms A at the XXX, you:
 - i. inserted your fingers into Ms A's vagina;
Determined and found proved
 - ii. put both your hands around Ms A's neck and applied pressure;
Determined and found proved
 - iii. exposed your penis to Ms A by removing it from your trousers;
Determined and found proved
 - iv. placed Ms A's hand on your penis;
Determined and found proved
 - v. grabbed Ms A's head and pushed it towards your exposed penis;
Determined and found proved
 - vi. said to Ms A '*you should have sorted it out*', or words to that effect, referring to your erection.
Determined and found proved
3. Ms A did not consent to your actions as set out in paragraphs 2(b)(i), 2(b)(ii), 2(b)(iii), 2(b)(iv) and 2(b)(v) above.
Determined and found proved

4. Between 20 November 2020 and 4 January 2021, you sent messages to Ms A via WhatsApp, the details of which are set out in Schedule 3.

Admitted and found proved

5. The messages referred to in paragraph 4 above were sent despite Ms A confirming to you that you were not her type.

Admitted and found proved

6. Between 20 November 2020 and 4 February 2021, you contacted Ms A via Snapchat and sent her photographs of:

a. yourself at work;

Not proved

b. a penis.

Not proved

7. Your conduct referred to in paragraphs 1, 2, 4 and 6 above was sexually motivated.

Paragraph 1 deleted after an application under Rule 17(2)(g)

Determined and found proved in relation to paragraphs 2 and 4

Not proved in relation to paragraph 6

8. Your conduct referred to in paragraphs 4, 5, 6 and 7 above amounted to harassment as defined in Section 1(1) Protection from Harassment Act 1997, in that you engaged in a course of improper, oppressive and/or unreasonable conduct causing alarm and/or distress to Ms A when you knew, or ought to have known, that conduct amounted to harassment.

Not 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 - 08/11/2023

101. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts found proved above, Dr Sadiq's fitness to practise is impaired by

reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

102. The Tribunal refused Dr Sadiq's application to adjourn the hearing and granted the GMC's application to proceed in absence. The Tribunal's decision on both, linked, applications is included at Annex E.

The Evidence

103. The Tribunal has taken account of all documentary and oral evidence received at the facts stage of the hearing. Dr Sadiq and the GMC also provided documents to the Tribunal in relation to Dr Sadiq's application to adjourn and the GMC application to proceed in absence. The Tribunal considered this extra evidence.

Submissions

On behalf of the GMC

104. Ms Duckworth submitted that Dr Sadiq's fitness to practise is currently impaired by reason of misconduct, citing relevant case law. After reminding the Tribunal of key facts, Ms Duckworth submitted that Dr Sadiq's actions towards Ms A would be considered deplorable by other medical practitioners and would outrage well-informed members of the public. The Tribunal did not accept his account and concluded that Dr Sadiq had touched Ms A's vagina, put her hand on his exposed penis, pushed her head towards it and choked her, all without Ms A's consent. His actions were found to be sexually motivated.

105. Although Dr Sadiq has no previous regulatory (or other) findings against him and his misconduct involved one victim, his actions were extremely serious and had a significant impact. The Tribunal is entitled to consider any evidence of lack of insight, such as the nature of Dr Sadiq's communications with Ms A after their in-person contact. His words show that Dr Sadiq failed to recognise the seriousness of his actions and their effect on Ms A; there was no apology. The Tribunal should find that his actions amount to serious misconduct.

The Relevant Legal Principles

106. The LQC advised the Tribunal on the approach to be taken. Counsel had no comment on the legal advice and the Tribunal accepted it. The decision on impairment is for the Tribunal alone to judge. It should first consider whether those matters found proved amount to misconduct which is serious. If so, then the Tribunal must determine whether Dr Sadiq's fitness to practise is impaired by reason of that misconduct.
107. In *Remedy UK v GMC 2010 EWHC 1245* the High Court said that misconduct is of two principal kinds. First, misconduct going to fitness to practise in the exercise of professional medical practice. Second, morally culpable or otherwise disgraceful conduct, outside or within professional practice. Conduct falls into the second category if it is dishonourable or attracts some kind of opprobrium – that fact may be sufficient to bring the profession of medicine into disrepute and it does not matter whether it was directly related to the exercise of professional skills.
108. In *Schodlok v GMC 2015 EWCA Civ 769* the Court of Appeal said: 'If the Panel decides that the facts do not amount to serious misconduct that would automatically mean that the doctor's fitness to practise is not impaired. However, if the Panel decides that the facts do amount to serious misconduct it has to decide whether that misconduct has the consequence that a doctor's fitness to practise is impaired.'
109. Impaired is not defined in the Medical Act. At the impairment stage, there is no burden or standard of proof. It is a question of judgment for this independent Tribunal, to be decided at the time of the hearing. To do this the Tribunal must look forward, taking account of any reparation, changes in conduct or attitude since the matters found proved occurred.
110. In determining impairment, the Tribunal must consider whether or not the facts found by the Tribunal indicate any risk of harm, breach of a fundamental tenet of the profession or bringing it into disrepute or likely future issues: *Grant 2011 EWHC 927*.
111. The need to maintain public confidence in the medical profession may mean that a doctor's fitness to practise is impaired by certain acts of misconduct in and of themselves. A finding of impairment may be necessary to reaffirm to the public and doctors the standard of conduct expected: *Yeong v GMC 2009 EWHC 1923*.

112. The Tribunal must determine whether Dr Sadiq's fitness to practise is impaired today, taking into account Dr Sadiq's conduct at relevant times, any subsequent change of attitude or behaviour and any likelihood of repetition. The Tribunal must decide this case on its merits, taking account of the tripartite public interest reflected in the overarching objective in the Medical Act 1983.

The Tribunal's Determination on Impairment

Misconduct

113. In determining whether Dr Sadiq's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct. It has found that he used his position as a doctor to gain Ms A's trust (in messages) on 19 November 2020. He then touched her vagina, put his hands around Ms A's neck and applied pressure, exposed his penis, put Ms A's hand on it and pushed her head towards it, all without consent.

114. Dr Sadiq's actions on 19 November 2020 were found to have been sexually motivated. The Tribunal took account of contextual factors, including the lack of apology or remorse from Dr Sadiq. Although his actions were not related to the exercise of his clinical skills, he had referred to his profession to gain trust.

115. The Tribunal considered paragraph 65 of *Good Medical Practice* to be relevant:

'65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'

Dr Sadiq's actions would undermine public trust and confidence in him, as well as in the medical profession.

116. The Tribunal determined that Dr Sadiq's actions in relation to Ms A would attract condemnation from other medical professionals and be deplored by reasonable, well-informed members of the public. His behaviour demonstrated a callous disregard for Ms A and would shock most people. Dr Sadiq's actions could be described as morally culpable and deeply repugnant. His misconduct would be condemned by most doctors and other members of the public.

117. The Tribunal concluded that Dr Sadiq's actions amounted to misconduct, which was serious.

Impairment

118. Having found that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether Dr Sadiq's fitness to practise is currently impaired by reason of that misconduct.

119. The Tribunal was aware that sexual misconduct is not easily remediable. But no evidence of apology, remorse, insight or remediation was provided by Dr Sadiq. He has not demonstrated any awareness of the impact of his actions on Ms A, nor taken steps to minimise the risk of repetition of his misconduct.

120. The Tribunal took account of principles in *Grant*. It concluded that Dr Sadiq's actions had breached a fundamental tenet of the medical profession, namely the obligation to ensure that his conduct justified public trust in the medical profession. He had breached this tenet by acting so as to bring the medical profession into disrepute, in breach of *GMP*.

121. The Tribunal took account of Dr Sadiq's previous good record but he is at a relatively early stage in his career. Members of the public expect doctors to comply with *GMP* and to be trustworthy. Otherwise, public trust in the medical profession is undermined and a finding of impairment may be required.

122. In this case, the need to maintain public confidence in the medical profession means that Dr Sadiq's fitness to practise is impaired by his serious misconduct in 2020. A finding of impairment is necessary to reaffirm to the public and doctors the standard of conduct expected: *Yeong v GMC 2009 EWHC 1923*.

123. The Tribunal took account of the need 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.

124. The Tribunal determined that Dr Sadiq's fitness to practise is currently impaired by reason of his misconduct.

Determination on Sanction - 10/11/2023

125. Having determined that Dr Sadiq'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.

The Evidence

126. The Tribunal has taken account of relevant evidence received during earlier stages of the hearing in reaching a decision on sanction.

Submissions

127. Ms Duckworth, Counsel for the GMC, submitted that erasure is the only appropriate and proportionate sanction in this case. The Tribunal should take account of relevant paragraphs of the *Sanctions Guidance* (November 2020 edition) ('the SG'). Dr Sadiq's fitness to practise was found to be impaired by reason of his sexual assault of Ms A and other serious misconduct.

128. Ms Duckworth submitted that the only potential mitigating factor in this case is lapse of time. Almost three years have elapsed since the events in question. In relation to aggravating factors, Ms Duckworth submitted that the facts found proved against Dr Sadiq amount to sexual assault because he touched Ms A's vagina without consent. By placing his hands around Ms A's neck and applying pressure, Dr Sadiq effectively choked Ms A, an act of violence. Although the GMC did not allege dishonesty in the Allegation, Dr Sadiq cannot be said to have acted with integrity; he used his status as a doctor to gain Ms A's trust. Ms Duckworth added that Dr Sadiq has not apologised for sexually assaulting and choking Ms A, nor shown any insight into the impact of these actions on Ms A.

129. Ms Duckworth submitted that there are no exceptional circumstances that could possibly justify taking no action in this case. No undertakings have been agreed. Conditions of practice would be wholly inadequate to protect the public interest; such an order would not reflect the gravity of the misconduct. Suspension would also be insufficient to mark the seriousness of Dr Sadiq's misconduct.

130. Although Dr Sadiq has been informed at every stage of the hearing that he may attend to give evidence and/or make submissions, he has not provided the Tribunal with any evidence of remorse, insight or steps to minimise the risk of repetition, such as relevant professional development. The Tribunal cannot be satisfied that Dr Sadiq has insight, or that there is no significant risk of repetition. Ms Duckworth submitted that erasure is the only appropriate and proportionate sanction to reflect the seriousness of Dr Sadiq's misconduct, uphold standards and maintain public confidence in the medical profession.

The Tribunal's Approach to Sanction

131. The LQC gave advice to the Tribunal as to the approach to be adopted at this stage. At the Sanction stage of proceedings there is no burden or standard of proof and the decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal's judgment alone. *GMP* sets out the standards expected of doctors. If possible, a balance should be struck between the doctor's interest and the public interest, but this cannot always be achieved.

132. A rejected defence may be relevant to insight and thus risk of repetition, but it is permissible to deny an Allegation, as a doctor has a right to a fair hearing: *Sawati v GMC 2022 EWHC 283*. A Tribunal should not be obliged to erase an otherwise competent and useful doctor who presents no danger to the public to satisfy public demand for blame or punishment: *Bijl v GMC 2001 UKPC 42*. The purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although a sanction may have a punitive effect.

133. In reaching its decision, the Tribunal should take account of the SG. Although a Tribunal need not adhere to the SG, it should have proper regard to it: *Bramhall 2021 EWHC 2109*. The Tribunal has a duty to state clear, substantial and specific reasons for any departure from the SG. In deciding what sanction, if any, to impose the Tribunal will consider the sanctions available, starting with the least restrictive. It will also take account of the principle of proportionality and the need to weigh the interests of the public against those of Dr Sadiq.

134. Counsel had no comment on this legal advice. The Tribunal took account of it.

Decision on Sanction

135. The Tribunal found as fact that Dr Sadiq touched Ms A's vagina, put her hand on his exposed penis, pushed her head towards it, put his hands around her neck and applied pressure, all without Ms A's consent. His actions were found to be sexually motivated. Although Dr Sadiq had no previous regulatory findings (or cautions or convictions) his actions amounted to serious misconduct. Current fitness to practise was found to be impaired by reason of that misconduct.

Aggravating and Mitigating Factors

136. Before deciding what action, if any, to take in relation to Dr Sadiq's registration, the Tribunal first sought to identify aggravating factors, then mitigating factors. The Tribunal considered the following paragraphs of the SG to be relevant and took them into account in its deliberations.

51 It is important for tribunals to consider insight, or lack of, when determining sanction.

52 A doctor is likely to lack insight if they:

a refuse to apologise or accept their mistakes

...

c do not demonstrate the timely development of insight

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

...

e sexual misconduct

56 Tribunals are also likely to take more serious action where certain conduct arises in a doctor's personal life, such as (this list is not exhaustive):

...

d misconduct involving violence or offences of a sexual nature

137. Dr Sadiq has not provided the Tribunal with any evidence of apology, remorse, insight or remediation in relation to his non-consensual and intrusive touching of Ms A's vagina, hand, head and neck. Dr Sadiq's sexual misconduct involved an element of violence

when he pushed Ms A's head and applied pressure to her neck. Ms A had told the Tribunal: *"I genuinely feared for my life and was glad to escape..."*

138. The Tribunal then sought to identify any mitigating factors. It took account of paragraph 25 of the SG which sets out a non-exhaustive list of mitigating factors. The fact that three years have elapsed since the relevant time may be seen as a potential mitigating factor.

25 The following are examples of mitigating factors:

...
e Lapse of time since an incident occurred.

139. The Tribunal considered that the only mitigating factor in this case is the lapse of time since Dr Sadiq's misconduct. However, the Tribunal did not consider this to be significant, in view of the absence of evidence of apology, remorse or insight since 2020. Dr Sadiq has not demonstrated a change in attitude since then.

The Tribunal's Determination on Sanction

140. Having identified relevant aggravating and mitigating factors, the Tribunal considered each option and available sanction, starting with the least restrictive. It took account of relevant evidence, submissions and applied the SG.

No Action

141. The Tribunal first considered whether to conclude the case by taking no action. Where a finding of impairment has been made, only exceptional circumstances would justify taking no action.

142. The Tribunal considered that there were no exceptional circumstances to justify taking no action in relation to Dr Sadiq's serious misconduct. Taking no action would not be appropriate or proportionate, nor sufficient to protect the public interest or to maintain confidence in the medical profession.

Conditions

143. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Sadiq's registration. The Tribunal took account of relevant paragraphs of the SG, which provides that any conditions would need to be appropriate, proportionate and workable. Even if there were conditions appropriate to deal with the serious misconduct in this case, the SG provides that such conditions are only likely to be workable where the doctor has insight and the Tribunal is satisfied that any conditions would be complied with.

144. The Tribunal considered that there were no conditions that would be appropriate, workable or proportionate to protect the public interest. A conditions of practise order would not reflect the gravity of the misconduct. The Tribunal determined that an order of conditions would not be sufficient to uphold standards or to maintain public confidence in doctors; it would not be in the public interest.

Suspension

145. The Tribunal then went on to consider whether imposing a period of suspension on Dr Sadiq's registration would be appropriate and proportionate. In doing so, the Tribunal took account of paragraph 97 of the SG.

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...

...

f No evidence of repetition of similar behaviour since incident.

g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.

146. The Tribunal considered 97(f) to be the only applicable factor out of those listed at paragraph 97 of the SG. The GMC did not present any evidence of repetition or suggest that Dr Sadiq has behaved in a similar way since 2020.

147. The Tribunal was not satisfied that Dr Sadiq had insight into his misconduct or its consequences, nor that he does not pose a significant risk of repeating such behaviour, taking account of the lack of evidence of any apology, remorse or remediation in relation to his sexual misconduct towards Ms A.

148. The Tribunal considered Dr Sadiq's actions to be fundamentally incompatible with continued registration. In view of the seriousness of his misconduct an order of suspension would be insufficient to uphold standards or to maintain public confidence in the medical profession.

149. Therefore, the Tribunal concluded that a period of suspension would not be appropriate or proportionate to protect the public interest.

Erasure

150. In considering erasure, the Tribunal considered paragraph 109 of the SG to be potentially relevant:

'109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive)...

- b** A deliberate or reckless disregard for the principles set out in Good medical practice ...*
- f** Offences of a sexual nature...*
- g** Offences involving violence...*
- j** Persistent lack of insight into the seriousness of their actions or the consequences.'*

151. The Tribunal considered that Dr Sadiq had deliberately or recklessly disregarded paragraph 65 of *Good Medical Practice*:

'65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'

152. As Dr Sadiq's actions would undermine public trust and confidence in him, as well as in the medical profession, the Tribunal found that paragraph 109(b) of the SG was applicable. In relation to paragraphs 109 (f) and (g) the Tribunal took account of the fact that Dr Sadiq had no cautions or convictions and had not been prosecuted in relation to his sexual misconduct towards Ms A. Nevertheless, the Tribunal considered Dr Sadiq's actions to amount to sexual assault, with an element of violence in relation to pushing Ms A's head towards his exposed penis, putting his hands around her neck and applying pressure.

153. Dr Sadiq has not provided the Tribunal with evidence of regret, insight, remorse, or steps to minimise risk of repetition in relation to these actions. The Tribunal was concerned as to his apparent continued lack of insight into the seriousness of his actions and their consequences for Ms A and public confidence in doctors.

154. The Tribunal concluded that Dr Sadiq's serious misconduct is fundamentally incompatible with continued registration. Erasure is the only appropriate and proportionate sanction sufficient to maintain public confidence in the medical profession and to uphold standards of conduct for doctors. The Tribunal determined that Dr Sadiq's name should be erased from the medical register.

Determination on Immediate Order - 10/11/2023

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

Submissions

156. On behalf of the GMC, Ms Duckworth, Counsel, submitted that an immediate order is necessary to reflect the seriousness of the findings of the Tribunal and decision to erase Dr Sadiq from the Medical Register. Ms Duckworth submitted that an immediate order is necessary in order to protect the public interest, in particular to uphold standards and maintain public confidence in doctors. Ms Duckworth also submitted that the interim suspension order imposed on 26 September 2023 should be revoked. These two applications are linked.

The Tribunal's Determination

157. 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 or otherwise in the public interest or is in the best interests of the practitioner. It has also taken account of paragraphs 172 and 178 of the SG, which state:

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. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.

158. The Tribunal considered the impact on Dr Sadiq of an immediate order: it would preclude him from practising in the UK as a registered medical practitioner and may have an impact on his financial position. However, taking account of the seriousness of its findings and sanction imposed, the Tribunal considered that an immediate order of suspension was appropriate and proportionate, taking account of the overarching objective in the Medical Act. The Tribunal determined that an immediate order is necessary to promote and maintain public confidence in the medical profession, and to uphold standards of conduct.

159. This means that Dr Sadiq'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 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.

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

161. That concludes the case.

ANNEX A – 24/07/2023

Application for special measures under Rule 36(1)(e)

162. Ms Duckworth made an application on behalf of the GMC under Rule 36(1)(e) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') for Ms A to give evidence as a vulnerable witness, with special measures. Ms Duckworth said that the application was not made on the basis of any mental disorder (or cognitive impairment) but health issues should be taken into account as context.

163. Counsel for Dr Sadiq, Mr Walters, did not disagree with points made by GMC or scope of special measures proposed. Two documents were provided to the Tribunal outlining Ms A's health issues and listing special measures jointly proposed by counsel.

Advice from the Legally Qualified Chair

164. The Tribunal must first decide whether the individual should be treated as a vulnerable witness and, if so, go on to decide on appropriate measures to enable Ms A's evidence to be heard. Rule 36(3) provides a non-exhaustive list of special measures which may be adopted. The Tribunal should also consider practical issues, such as how to ensure that the witness is not prompted, so that their evidence is not undermined.

165. The Tribunal must take account of MPTS Guidance published in July 2021: *Use of video link, telephone evidence and special measures at Medical Practitioners Tribunal hearings - Guidance for Decision Makers, Parties and Representatives*. The Tribunal must consider submissions from both counsel, legal provisions and relevant guidance.

166. At all stages, the Tribunal should consider the overarching objective in the Medical Act 1983, to protect the public, uphold professional standards and maintain confidence in doctors. The Tribunal should also take account of the Dr Sadiq's right to a fair hearing under Article 6 of the European convention on human rights.

Tribunal's Decision

167. The Tribunal took account of the fact that this amounts to a joint application by counsel for measures to ensure that Ms A is facilitated to give best (achievable) evidence. As Ms

A is the alleged victim of sexual misconduct, the Tribunal considered the application to fall within the scope of Rule 36(1)(e).

168. Rule 36 provides that:

(1) In proceedings before the Tribunal, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness-

...

(e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim;

(2) Upon hearing representations from the parties, the Tribunal shall adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Tribunal may include:

(a) use of video links...

169. The Tribunal considered that Ms A should be treated as a vulnerable witness. The GMC's application was for four special measures to be arranged under Rule 36(1)(e). All special measures proposed were agreed by Mr Walters.

170. The Tribunal considered that measures proposed by counsel were likely to reduce or minimise potential distress to Ms A when being asked questions in relation to the Allegation. The Tribunal did not consider that these measures would cause prejudice to Dr Sadiq or to the GMC.

171. The special measures will be as follows:

- Dr Sadiq must not be visible on screen whilst Ms A is giving evidence.
- Dr Sadiq's name must not be visible on screen whilst Ms A is giving evidence.
- Ms A's mother may be present whilst Ms A gives her evidence, except when Ms A is being questioned in relation to the police interview.
- The Tribunal will provide frequent breaks to Ms A on request by counsel / Ms A.

172. The Tribunal determined to allow the GMC's application for special measures under Rule 36(1)(e) for Ms A to be treated as a vulnerable witness and to have special measures to avoid the quality of her evidence being adversely affected.

ANNEX B – 27/07/2023

Application to amend the Allegation under Rule 17 and adduce further evidence under Rule 34

173. On 27 July 2023 Ms Duckworth made an application on behalf of the GMC to amend paragraph 1 of the Allegation under Rule 17(6) of the Rules. Ms Duckworth's proposed amendment was to substitute the word 'guidance' for 'rule' in the first paragraph of the Allegation. This was to reflect the narrow wording in the Covid Regulations 2020.

174. After a request from the Tribunal for clarification in relation to the context of paragraph 1 of the Allegation, Ms Duckworth arranged for information about Covid provisions in November 2020 to be compiled. This information showed that it was not unlawful for someone alerted by the NHS app (of recent proximity to someone who had tested positive) to meet another person, although it may have been inadvisable.

175. As Counsel were unable to agree on documents to be provided to the Tribunal in relation to Covid rules, Ms Duckworth applied to adduce a bundle of documents including an extract from the Covid Regulations 2020 under Rule 34(1). It was agreed that Regulation 2A did not apply to those who had been notified by the NHS Covid 19 smartphone app. Thus, it did not assist the GMC to prove Allegation 1 as drafted, or in its proposed new form, were the Tribunal to allow an amendment to be made.

176. Ms Duckworth said that GMC Legal had collated guidance and legislative provisions in relation to Covid 19 rules, as well as Test & Trace, in response to the request from the Tribunal for clear information about the provisions in force at relevant times.

177. In relation to the Rule 17 application, Ms Duckworth submitted that this amendment could be made without causing injustice or prejudice to Dr Sadiq, also that the word 'rule' was open to a wider interpretation than solely alluding to Covid Regulations 2020. But Ms Duckworth accepted that 'guidance' may cover a wider range of provisions than 'rules'.

178. On behalf of Dr Sadiq, Mr Walters opposed the proposed amendment on the basis that it could make paragraph 1 of the Allegation more amenable to proof by covering a wider range of Covid provisions. Mr Walters said that the GMC had not adduced sufficient, if any, evidence to prove paragraph 1 of the Allegation. It would be unfair to allow the GMC to amend that paragraph of the Allegation.

179. The current Allegation asserts that Dr Sadiq encouraged Ms A to breach rules but does not specify a particular Regulation or other rule at paragraph 1 of the Allegation. Mr Walters said that this should have been clarified in advance of the hearing, to be fair to Dr Sadiq. In its current form paragraph 1 of the Allegation could not be proved and the GMC should not be permitted to adduce extra evidence at this late stage in relation to this allegation.

180. Mr Walters invited the Tribunal to consider the application to amend the Allegation before the application to adduce further evidence. Ms Duckworth did not object to this approach. Counsel agreed that the Tribunal may consider the new documents to reach its decisions.

Advice from the LQC on the Tribunal's Approach

181. The LQC advised the Tribunal that, where it appears to the Tribunal that the Allegation should be amended and the amendment can be made without injustice, the Tribunal may, after hearing from counsel for the GMC and Dr Sadiq, amend the allegation in appropriate terms. This may be done at any time during the hearing.

182. The Tribunal may allow the GMC (or Dr Sadiq) to adduce extra documents or other evidence if it appears relevant to any paragraph of the Allegation, provided this would be fair to both. The Tribunal had to consider whether the extra evidence could be presented by the GMC, at this late stage, without causing any injustice to Dr Sadiq.

183. There was no comment on the legal advice from Counsel.

The Tribunal's Decision

184. The decision whether to grant or refuse the applications is for the Tribunal alone, taking account of submissions from counsel, as well as all documents provided. In its

discussions, the Tribunal took account of the statutory overarching objective in the Medical Act 1983, including public safety and the wider public interest. The Tribunal had to consider GMC applications under paragraphs 17(6) and 34(1) of the Rules.

Rule 17(6) of the Rules provides:

Where, at any time, it appears to the Tribunal that—

(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and

(b) the amendment can be made without injustice,

it may, after hearing the parties, amend the allegation in appropriate terms.

Rule 34(1) of the Rules provides:

The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.

185. The Tribunal took account of the evidence adduced so far, as well as additional documents provided by the GMC, in relation to the applications. Although it sought to determine the applications sequentially, the Tribunal had heard submissions from counsel in relation to both at the same time and considered issues relevant to the applications to be inter-connected.

186. The Tribunal took account of submissions from counsel, legal advice and the provisions in Rules 17 and 34. The Tribunal had to balance the need to be fair to Dr Sadiq with the need to maintain public confidence in doctors and their regulator.

187. The GMC has had several months to check provisions in the Covid Act 2020 and Covid Regulations 2020. It would have been straightforward to check the relevant provisions, identify any rule or guidance breached and draft the Allegation to reflect this. To allow a substantive amendment to paragraph 1 of the Allegation, after all GMC evidence had been heard, would not be fair to Dr Sadiq.

188. The Tribunal considered that the proposed amendment to paragraph 1 of the Allegation could not be made without injustice to Dr Sadiq. The proposed amendment would make

it easier for the GMC to prove paragraph 1 of the Allegation to the civil standard. The Tribunal decided to refuse the application to amend the Allegation.

189. The Tribunal also refused the application to adduce further evidence by the GMC. This is because the GMC had not established its relevance to any specific ‘rule’ relevant to paragraph 1 of the Allegation.

190. The Tribunal determined to refuse both GMC applications.

ANNEX C – 01/08/2023

Application under Rule 17(2)(g)

191. At the end of the GMC’s case on facts, Mr Walters, Counsel, on behalf of Dr Sadiq, made an application under Rule 17(2)(g) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), which states:

‘the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld.’

Submissions

On behalf of Dr Sadiq

192. Mr Walters provided written and oral submissions that there was no case to answer in relation to those particulars in the Allegation not admitted. He submitted that there was insufficient evidence in relation to ‘outstanding’ paragraphs 1-3 and 6-8 of the Allegation for the Tribunal to proceed.

193. Mr Walters reminded the Tribunal that the burden of proof is on the GMC and that the Tribunal must apply the civil standard, or balance of probabilities. He directed the Tribunal to relevant case law in relation to standard of proof.

194. Mr Walters submitted that there is no case to answer in relation to paragraphs 1-3 and 6-8 of the Allegation. He asked the Tribunal to consider, firstly, whether there is any

evidence to support a particular fact in dispute. Secondly, where there is some evidence, is it of such a tenuous or inconsistent nature that a properly directed Tribunal could not reasonably find it proved? Mr Walters submitted that the Tribunal should consider whether a decision to proceed further in relation to paragraphs 1-3 and 6-8 of the Allegation could be justified.

195. Mr Walters submitted that the evidence of Ms A was vague, contradictory and unreliable.
196. Mr Walters submitted that the evidence relied on by the GMC is insufficient, tenuous or contingent on speculation by the Tribunal. He added that there is no strong evidence to support the allegations that Dr Sadiq had acted as alleged, except where admitted.
197. Mr Walters said that assertions, beliefs, possibilities and theories are insufficient for the GMC to find disputed allegations proved to the civil standard; on this basis the case should proceed no further. His written submissions included the following points:
198. In relation to Allegation 1, there is no evidence that there was any such thing as “tracking of isolation” or why, by using the phrase, Dr Sadiq was encouraging a breach of any rule or rules. There was an NHS Test and Trace App, not a tracking app. Dr Sadiq did not meet Ms A until 19 November 2020 and the GMC has provided no evidence of any pressure put on Ms A to meet on 18 November 2020.
199. In relation to Allegation 2(a), the four messages at Schedule 2 are not evidence in themselves and/or there is no evidence from Ms A herself. Alternatively, any evidence is unsatisfactory, weak and tenuous. The messages should be seen as jocular and harmless. It is common ground that Dr Sadiq and Ms A had already ‘matched’ on Tinder.
200. In relation to Allegations 2(b)(i) to (vi), the GMC’s evidence in relation to these allegations is of a tenuous character, inherently weak and vague, and full of inconsistencies and contradictions. The evidence of Ms A is inherently unreliable, contradictory and vague, both in Police Interview and in Witness Statements and are full of admissions and/or expressions of lack of memory or recall, with uncertainty expressed on almost every page. They are packed with phrases such as “I don’t remember”, “I don’t know” and “I’m not sure”. Ms A looks for sources outside herself to try to fill the gaps in her evidence. The misread message “sorry for not strangling” from Dr Sadiq was used erroneously to support her account in Police Interview.

201. Ms A's memory was affected by the length of time that had elapsed since November 2020.

202. The evidence of Ms A contradicts the evidence of Friends X and Y in fundamental details, such as the location she gives of the alleged assault, in a car in a XXX carpark or somewhere by a pond.

203. Ms A gives contradictory and jumbled accounts of the alleged acts by Dr Sadiq. Evidence as to location, order and nature of events is inherently unreliable. Ms A tried to give the impression that the meeting with Dr Sadiq was somehow forced, but they had been matched through Tinder and communicated in the days before and after the alleged incident, according to the timeline of events/communication.

204. In relation to Allegation 6(a), the GMC's evidence of Dr Sadiq sending the photograph to Ms A via Snapchat is tenuous and unreliable. Ms A states she deleted pictures and blocked Dr Sadiq on Snapchat. There is no objective evidence of the mechanism of Snapchat, the alleged adding on Snapchat under a different name, showing that this photograph was sent from Dr Sadiq to Ms A, rather than downloaded by Ms A.

205. In relation to Allegation 6(b), there is no objective evidence of the alleged photograph or the sending such a photograph on Snapchat. Alternatively, the evidence of this is too vague to be reliable. Ms A alleges that she deleted the screenshots of Dr Sadiq's Tinder profile and the alleged photograph.

206. In relation to Allegation 7, the evidence of this allegation is unreliable and tenuous. The same arguments on the evidence under allegations 1, 2 and 6 are relied on for this allegation. In relation to allegation 4, which is admitted, if looked at in isolation (unclear if this is intended) there is insufficient evidence to prove sexual motivation for these messages.

207. In relation to Allegation 8, the evidence in relation to this allegation is unreliable and tenuous. The same arguments on the evidence under allegations 6 and 7 above are relied on for this allegation. In relation to allegations 4-5 (both admitted) if looked at in isolation (unclear if this is intended) there is insufficient evidence that they amounted to harassment.

208. The following matters were relied on in relation to the Allegation as a whole: The case concerned one brief meeting on 19 November 2020 of under an hour in a public place between Ms A and Dr Sadiq following a match on Tinder. Ms A relied on her account in [police] interview, both in her witness statement and in oral evidence. There is no forensic evidence to support GMC's case. There is no evidence of any injury and no injury is alleged. There is no CCTV evidence.

209. The case was not reported to the Police by Ms A until February 2021. The Police took no further action against Dr Sadiq, there being no realistic prospect of conviction following interviews with Ms A, information from Dr Sadiq and statements from friends X and Y. There were no independent witnesses to the alleged acts.

On behalf of the GMC

210. Ms Duckworth directed the Tribunal's attention to relevant authorities. Ms Duckworth submitted that the Tribunal should consider all evidence presented in relation to disputed facts in relation to paragraphs 1-3 and 6-8 of the Allegation. Ms Duckworth argued that Mr Walters had not dealt with key evidence in relation to each specific allegation and its cumulative effect.

211. Ms Duckworth said the GMC relies, in part, on inferences that may be drawn from primary facts, some of which are admitted, such as Dr Sadiq's messages to Ms A. The Tribunal may infer sexual motivation.

212. Ms Duckworth referred to various sources of evidence supporting the Allegation, including the statements of Ms A, screenshots and other documents adduced by the GMC.

213. Ms Duckworth accepted that principles in Galbraith apply to these proceedings. However, Ms Duckworth said the evidence presented by the GMC is not tenuous, inherently weak or vague.

214. Ms Duckworth refuted Mr Walters' claim that the GMC case, taken at its highest, was such that the Tribunal properly directed could not find the Allegation proved. The Tribunal's decision on facts depends on its assessment of the reliability of witness evidence. It should ask whether Ms A is an honest, accurate, credible and reliable witness.

215. It would be an error to conflate the different tests to be applied at various stages of these proceedings. Whether facts amount to misconduct is not a test for the Facts stage or Half Time Submissions. The test to be applied at this stage is not whether disputed facts have been proved to the civil standard. Rather, it is whether sufficient (cogent) evidence has been adduced for the Tribunal to properly consider it.
216. Archbold Chapter IV alludes to the case of *Brown (Davina) 2001 EWCA Crim 961*. This confirms that, after hearing all the evidence at trial, a judge had the power to rule that there was no case to go before the jury if satisfied that no properly directed reasonable jury could safely convict on that evidence.
217. *Brooks v DPP [1994] 1 AC 568* is a reminder that committal proceedings did not usually conclude with finding of no case to answer. In other words, it would be unusual for a criminal court to find that there was no realistic prospect of success before all evidence had been adduced by both sides. As the civil standard of proof is lower, it should even more rare for a disciplinary Tribunal to discontinue proceedings after a *Galbraith* submission.
218. The delay between the time of the alleged misconduct and Ms A reporting it is not excessive. There was a gap of about three months from November 2020 to February 2021.
219. In *IRC v Kingston CC [2001] EWHC 581*, Stanley Burnton LJ said that, when considering the test to be applied at this stage, it would be inappropriate to view a discrete piece of evidence in isolation, without taking account of other evidence and wider context. Where a submission is made of no case to answer, the question is not whether a defendant (or doctor) should be convicted (or have adverse factual findings made) but a question of the sufficiency of evidence adduced thus far.
220. At a later stage, the Tribunal will be asked to draw certain inferences from documents in the context of evidence from Ms A, who is the main witness for the GMC. The Tribunal should be wary of characterising her evidence as inherently weak. Health conditions such as XXX do not undermine evidence; to conclude this would be prejudicial. This is not a case of a witness so vulnerable that disability precludes their evidence being heard or tested.

221. Counsel both said that Ms A's health issues also related to unconnected events after November 2020.
222. An overall assessment of the accuracy or veracity of Ms A's evidence should be conducted at the fact-finding stage, not now. Ms A was cross-examined at length and gave full, coherent answers, although Ms A accepted that she could not answer every question. The fact that Ms A repeatedly said 'I think...' is to be weighed with other evidence. The context of these words may be communication difficulties. This would not indicate that Ms A's evidence is weak or tenuous.
223. Although there is no medical evidence in support of the allegation of strangulation, that does not cast doubt on Ms A's account. Similarly, the lack of CCTV footage does not render the evidence insufficient and is not a bar to the Tribunal proceeding further.
224. Sexual allegations are frequently tried without evidence from independent witnesses. The police investigated Dr Sadiq but did not charge him with any criminal offence. This decision cannot be used to displace the Tribunal's duty to consider whether the Allegation has been proved to the civil (not criminal) standard or the sufficiency of evidence to proceed, applying the *Galbraith* test.
225. The GMC focus is the public interest as opposed to criminal offences. To that end the GMC has sought to present cogent evidence in support of each allegation, including from Friend X and Friend Y to rebut any implication or suggestion of recent fabrication by Ms A. The Allegation was made later, so the GMC has presented evidence of a complaint made at the relevant time to the Tribunal.
226. The Crown Court compendium says, where an earlier complaint has been made, such evidence is admissible as evidence of the truth of the allegation, provided there was no duress. The Tribunal should, in due course, take account of the absence of independent support, the context in which Ms A made her complaint, any explanation for delay, consistency with the subsequent complaint, as well as any inconsistencies or discrepancies in evidence. This should be assessed after hearing all evidence.
227. Ms A was consistent in alleging digital penetration, as well as strangulation, but there may be discrepancies in relation to estimated length of incident. Ms A's inability to recall the name of a café does not undermine her evidence. Ms A was not even asked if it was open.

228.No Tribunal should make the same assumptions in relation to events on 19 November 2020 as were made by Mr Walters. The CC Compendium provides directions in relation to stereotypes and reactions to non-consensual sexual assault. People react differently: some complain immediately, others may not complain for some time (if ever). Judges may properly allude to an (inappropriate) sense of shame experienced by a complainant who has been sexually assaulted. A delay in reporting this does not mean that it was a false complaint.

229.Ms A withstood cross-examination for a whole day. The fact that Ms A needed breaks is no basis to assert that her evidence was unreliable. Credibility should be assessed at the Facts stage.

230.Ms Duckworth said, if the Tribunal considers that, on one possible view of the facts, the GMC would be able to establish to the civil standard that Dr Sadiq had acted as alleged, a reasonable Tribunal could properly determine that his misconduct was sexually motivated, and that he encouraged Ms A to breach Covid rules. On this basis, Ms Duckworth invited the Tribunal to dismiss the Application in its entirety.

Relevant Legal Principles

231.The LQC provided advice on the approach to be taken, in the presence of counsel. Each barrister was offered a written note of this advice. Key points follow:

- a. Counsel for Dr Sadiq may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result. The Tribunal must consider any such submissions and announce its decision as to whether they should be upheld: Rule 17(2)(g) of the 2004 Rules.
- b. The leading authority on the test a trial judge should apply in determining whether there is a case to answer is *Galbraith [1981] 2 All ER 1060*. Lord Lane CJ said at 1042B–D:

“How then should the judge approach a submission of ‘no case’?

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

(2) The difficulty arises where there is some evidence, but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence.

(a) Where the judge concludes that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury ...”

- c. If this Tribunal proceeds, the burden of proving disputed facts is on the GMC. There is no burden on Dr Sadiq to disprove anything in the Allegation; he is only obliged to answer specific allegations against him and no others. The Tribunal must not speculate. In assessing the veracity and reliability of each witness' evidence, account must be taken of relevant factors such as passage of time or signs of collusion between witnesses. Accuracy of recall cannot be inferred from apparent confidence, nor should the demeanour of any witness be relied on as an indicator of honesty.
- d. In *Byrne v GMC [2021] EWHC 2237* the court said:
*“Where an event is inherently improbable, it may take better evidence to persuade a judge that it has happened. This goes to the quality of evidence...
However, it does not follow, as a rule of law, that the more serious the allegation, the less likely it is to have occurred. So whilst the court may take account of inherent probabilities, there is no logical or necessary connection between seriousness and probability. Thus, it is not the case that ‘the more serious the allegation the more cogent the evidence needed to prove it”*
- e. A Tribunal may properly draw inferences, where it is not unfair to do so. A useful definition of inferences was provided in *Kuzmin v GMC 2019 EWHC 2129*:
“Inferences are simply conclusions deduced by a competent fact-finder by a process of reasoning (including drawing on common experience) from primary facts, ie matters which the fact-finder accepts were observed by witnesses and proved by oral or written testimony, or proved by the production of a thing itself such as an original document. A fact-finder such as a disciplinary tribunal may draw such inferences as it

considers appropriate from the primary facts... However, of course, inferences may be impermissible in certain circumstances, notably where they give rise to procedural unfairness or an unacceptable risk of such unfairness.”

- f. If this case proceeds, the Tribunal must consider all evidence heard, in the context of documents provided. In relation to sexual motivation alleged at paragraph 6 of the Allegation, the test is that set out in *Haris* [2021] EWCA 763. The Tribunal would have to ascertain Dr Sadiq’s reasons for acting as alleged (if found proved) as a matter of evidence.
- g. Account should be taken of the principles above in assessing whether the evidence adduced by the GMC is such that a reasonable Tribunal could properly find particulars proved on a balance of probabilities. *SRA v Sheikh* 2020 EWHC 3062 provides a reminder that, when considering a *Galbraith* submission of no case to answer, a Tribunal needs to consider whether there is evidence, taken at its highest, which on one possible view could support the allegation being found proved. A Tribunal should:
- not simply dismiss evidence;
 - not make findings of fact, particularly without asking whether a contrary conclusion is reasonably sustainable; and
 - look at the totality of the evidence and consider individual allegations in the context of the totality of the evidence.

232. The Tribunal was also reminded that, at this stage, its purpose was not to make factual findings but to decide whether evidence adduced by the GMC, taken at its highest, was such that a reasonable Tribunal could properly find disputed points proved to the civil standard, on a balance of probabilities, taking account of counsel’s submissions. There was no time for any comments on the legal advice or for counsel to respond to points made by their opponent/s on Friday evening, so the LQC invited each barrister to provide any further remarks in written submissions and ask the Tribunal to hear further oral argument if that appeared necessary.

Extra submissions by Counsel

233. These are a matter of record, so will not be reproduced in their entirety. Key points made by counsel included the following.

234. Mr Walters asked the LQC to give an additional direction to the Tribunal in relation to changes he was asked to make in questioning a vulnerable witness. Ms Duckworth objected to this, in the absence of a list of questions or topics Mr Walters believed he could not adequately address.

235. Mr Walters emailed submissions in response to points made by Ms Duckworth on 28 July 2023: In relation to Allegation 1, the GMC asked the Tribunal to draw inferences from one phrase in a message, in the absence of any evidence of any reference to specific rule/s or guidance in the Allegation. It would be unfair to draw such inferences in all the circumstances, including the Tribunal's decisions at Annex B.

236. On the issue of delay, Mr Walters submitted that the Tribunal should also consider why these matters did not come to light sooner. In other words, why did Ms A not go to the police any earlier?

237. It would be impermissible for the Tribunal to speculate, in relation to those paragraphs where insufficient evidence has been adduced by the GMC. Mr Walters reiterated his primary submission that, taking the GMC case at its highest, no reasonable tribunal could find Allegations 1-3 and 5-8 proved.

Ms Duckworth's email response

238. There was no objection to the Tribunal reading Mr Walters' response to Ms Duckworth's oral submission on behalf of the GMC. In relation to his assertion that he was hindered in cross-examination of Ms A, if Mr Walters was unable to ask any particular questions of Ms A, he may provide the Tribunal with a list of such questions or topics he was unable to put to the witness because of a vulnerability.

239. Ms Duckworth submitted that Mr Walters was 'able to cross examine Ms A for a number of hours and put a range of topics to her. Mr Walters was able specifically to put to her, based on his client's case, that Ms A was lying about a number of specific allegations.' This was 'squarely' put to Ms A. Ms Duckworth said the disputed areas of fact were fully explored with Ms A.

240. Ms Duckworth added: 'If Mr Walters asserts that any particular topic, question or assertion was not put to the witness because of her disability he should provide a list of these. Only then can the Tribunal assess the extent to which any "proper fair allowances"

should be made.’ Ms Duckworth indicated that she could make further submissions, if asked, on this point, if Mr Walters provided a list of such questions.

The Tribunal’s response to further submissions made by Counsel

241. The Tribunal was aware that Mr Walters had been interrupted several times in cross-examination, both by the LQC and counsel for the GMC. He was asked to take account of the guidance on questioning a vulnerable witness by asking succinct, clear questions, one at a time, as well as to avoid leading or tag questions. Ordinarily such questions would be asked in cross-examination.

242. To reflect the unusual circumstances, the LQC gave the following direction:

‘Ms A could not be questioned in the usual way because of her presentation and the special measures in place. This does not mean that her evidence was not disputed by Dr Sadiq. To be fair to Dr Sadiq, the Tribunal should make allowances for difficulties faced by counsel in asking Ms A questions.’

The Tribunal’s Decision

243. At the beginning of the hearing, Dr Sadiq formally admitted paragraphs 4 and 5. On this basis the Tribunal found both proved.

244. The Tribunal took account of all evidence presented by the GMC, in the context of relevant legal principles identified by Mr Walters, Ms Duckworth and the LQC. It was aware of evidence provided by Dr Sadiq but could not take account of his witness statement and documents at this stage.

245. The Tribunal had to consider whether there is a case to answer in relation to paragraphs 1-3 and 6-8 of the Allegation. In relation to each disputed particular the Tribunal had to determine whether the GMC had adduced sufficient evidence for the Tribunal to find facts proved.

246. As Allegation 1 was qualitatively different from the other allegations, the Tribunal considered it before the other allegations.

Allegation 1

247. The Tribunal took account of the fact that messages between Dr Sadiq and Ms A referred to an ‘isolation’ period. This was in November 2020 when the Covid-19 pandemic had resulted in guidance to minimise risk of transmission, as well as Regulations being made (by way of Statutory Instrument) under the Covid Act 2020. It was alleged that Dr Sadiq repeatedly asked Ms A to meet ‘today’ on 18 November 2020 if Ms A was not being ‘tracked,’ despite Ms A telling him she was isolating after an alert from the NHS App. Ms A said she was shocked to be asked to breach guidance by a doctor.

248. However, the Tribunal did not consider that guidance amounted to a rule, as alleged. The words ‘rule’ and ‘guidance’ must be given their natural meaning. The Tribunal considered that most people would distinguish a rule from guidance: whether to follow guidance is discretionary, whereas compliance with a rule is mandatory. The Tribunal was aware that there were rules in place in November 2020. However, the GMC did not specify any rule/s that Dr Sadiq had allegedly encouraged Ms A to breach, so could not prove Allegation 1.

249. The Tribunal determined that there was no case to answer in relation to paragraph 1 of the Allegation.

Allegation 2(a)

250. The GMC relied on Ms A’s supplemental witness statement in relation to demonstrating that Dr Sadiq attempted to gain Ms A’s trust by saying he was a doctor who saved lives and a ‘nice guy’. The Tribunal considered that this Allegation 2(a) would require the GMC to establish Dr Sadiq’s intentions in relation to motivation for messages. It could be argued that the Tribunal may infer these from the words used by Dr Sadiq.

251. Ms Duckworth argued that the Tribunal should draw an ‘obvious’ inference that Dr Sadiq sent messages to gain trust, taking account of Ms A’s response. The Tribunal considered that Ms A’s response may or may not be relevant to its determinations.

252. It was accepted that Dr Sadiq had sent all messages reproduced at Schedule 2. The Tribunal considered that, whether Dr Sadiq gave oral evidence or not, the GMC had adduced sufficient evidence to establish a *prima facie* case that his motivation was to gain trust. Whether such an inference may properly be drawn is to be determined at a later stage, after Dr Sadiq has presented his case and submissions have been made by

counsel. The claim that Allegation 2(a) would not amount to misconduct is not (yet) relevant (if ever).

253. A reasonable Tribunal, properly directed as to relevant law, could find that Dr Sadiq used his position as a doctor to gain trust, based on the content of the texts. Medicine is a regulated profession and as such carries a status that could be used to gain trust.

254. The Tribunal considered that there is a case to answer on paragraph 2(a) of the Allegation.

Allegation 2(b)

255. As Mr Walters pointed out, Ms A was unable clearly to recall an exact sequence of events or to give precise timings in answer to questions in cross-examination. There was a discrepancy between Ms A and Friend Y in relation to the XXX car park and whether Ms A was in Dr Sadiq's car at any stage. Also, Ms A could not be sure whether she was standing or kneeling at one key point in her account. However, the situation – if Ms A is to be believed – was dynamic and distressing. This could impact on Ms A's ability to recall precise details, arguably positively or negatively.

256. Although Mr Walters pointed out some contradictions in the GMC case, the Tribunal could not dismiss Ms A's account of events as so unreliable that there was no case to answer in relation to Allegation 2(b). This is because Ms A was not inconsistent on the main allegations, or core assertions, when comparing answers in her police interview with her statement to the GMC as well as evidence to the Tribunal. Although Ms A said 'I think' a lot, this may indicate a commitment to accuracy, as opposed to unreliability. In other words, to acknowledge gaps in memory could indicate uncertainty about a fabricated account or an honest acknowledgement of an inability to recall.

257. The Tribunal was told that Ms A took notes to the police interview as an *aide memoire*, some of which had been written by her mother the night before at Ms A's request. If this is correct, the fact of the notes not being provided in evidence does not necessarily undermine the GMC case. It is one of many issues to be taken into account when assessing the veracity of Ms A's account of events. It would be preferable to have the notes, but, as they were not created in November 2020, their absence is not as concerning as if made contemporaneously.

258. Friend Y's evidence only partially supported the evidence of Ms A. There were contradictions between their two accounts, indicating that one or other was in error. It cannot be said that Ms A is wrong or lying because Friend Y made an unwarranted assumption or because Ms A was wrong about how long the incident lasted. But it may now be said that Friend Y is not wholly corroborative of Ms A, as Mr Walters submitted. Only Friend Y mentioned a XXX carpark, not Ms A. It was also only Friend Y who indicated that Ms A was in Dr Sadiq's vehicle.
259. Ms Duckworth submitted that Ms A was in shock, so only realised what was happening when Dr Sadiq's digits were removed. Ms A described a 'freeze' response. Ms Duckworth said Ms A should not be deemed unreliable by reason of being unable to describe the mechanism of insertion. The Tribunal must consider all the evidence in assessing the veracity or otherwise of Ms A's account.
260. The fact that Ms A misconstrued 'sorry for not strangling' does not indicate invention. It could be deemed to support or to undermine her account of events, depending on the Tribunal's analysis of all the evidence, once it has been presented. Ms Duckworth reminded the Tribunal of Ms A's evidence that a person who alleges sexual assault may struggle with confidence. Ms A said the text about strangling gave her confidence that Dr Sadiq may be convicted. The Tribunal concluded that the fact that Ms A misunderstood a message does not indicate, of itself, that her allegations are unreliable or vague. Ms A made a very specific allegation of strangulation. This is not inherently implausible.
261. In relation to exposure, Ms A clarified some details in extra witness statement. Although Ms A said she could not recall if forced to knees or remained stood up, that does not necessarily undermine her account of events so seriously that there is an insufficiency of cogent evidence to proceed.
262. Similarly, in relation to the allegation about Dr Sadiq placing Ms A's hand on his penis, Ms Duckworth submitted that it was a distressing incident, not a static situation. The Tribunal identified sufficient consistency in Ms A's complaint to determine that this element of the Allegation should proceed.
263. In relation to grabbing Ms A's head, Ms Duckworth accepted that the GMC's only witness of fact could not recall every detail. The Tribunal considered that this goes to the credibility of her account but did not find that the evidence was so tenuous, vague or inconsistent that it would be unfair for the Allegation to proceed to the next stage.

264. Ms A's claim that Dr Sadiq said she should have 'sorted it out' in reference to his erection was also sufficiently cogent and plausible to establish a realistic prospect of proof.

265. The Tribunal determined that there is a case to answer in relation to paragraph 2 of the Allegation.

Allegation 3

266. Ms Duckworth submitted that Ms A made it clear she was averse to strangulation when asked about sexual kinks by Dr Sadiq. The Tribunal considered that Ms A's evidence was consistent enough in relation to lack of consent in relation to Allegation 2(b)(i-v) that it could not be said that the GMC had not adduced sufficient evidence for the Tribunal properly to determine Allegation 3.

267. The Tribunal determined that there is a case to answer in relation to paragraph 3 of the Allegation.

Allegation 6

268. The GMC relied on evidence from Ms A about being sent photographs on Snapchat. Ms A gave a clear account of receiving two pictures, one innocuous and the other sexual. The evidence on these assertions is consistent between different statements, but only one photograph is adduced. Ms A said that the other was provided to police. The GMC has not explained why it was not presented to the Tribunal, nor explained what efforts were made to obtain it, if any.

269. The absence of evidence is not evidence of absence, but the Tribunal was concerned about the gap. This is a matter to be weighed with other evidence, after hearing submissions. The test is not whether there is photographic, objective or independent evidence to support an account of events. The GMC only has to establish a sufficiency of evidence to proceed to the facts stage. By adducing Ms A's clear account of receiving photographs, the Tribunal considers the GMC to have established a sufficiency of evidence.

270. The Tribunal determined that there is a case to answer in relation to paragraph 6 of the Allegation.

271. The Tribunal was aware of an ambiguity in the words of Allegation 6. Counsel may make submissions as to the meaning of “on” Snapchat to assist the Tribunal in its determination on facts.

Allegation 7

272. The best evidence of a sexual motivation could be the behaviour itself. It may be appropriate to draw an "irresistible" inference of sexual motivation when the only way the behaviour could be perceived was as overtly sexual and in the absence of any other plausible innocent explanation: *Haris v GMC 2021 EWCA Civ 763*. Where the nature of misconduct could be sexual, the Tribunal must first determine whether the acts alleged could be sexual, an objective test. If so, the Tribunal must determine, as a separate question, whether the motivation for each act was sexual – a subjective test.

273. Allegation 7 is also ambiguously drafted. Is sexual motivation to be established in relation to all four paragraphs 1, 2, 4 and 6 or can the Tribunal properly find sexual motivation in relation to some but not all? If the former, then Allegation 7 is not amenable to proof because there is no case to answer in relation to Allegation 1. If the latter then the question of sexual motivation is one for a later stage, as appropriate inferences may be drawn. The GMC has adduced sufficient evidence for Allegation 7 to proceed in relation to paragraphs 2, 4 and 6, but not in relation to paragraph 1. Ms Duckworth may apply to amend this paragraph.

274. The Tribunal determined that there is a case to answer in relation to paragraph 7 of the Allegation, in relation to paragraphs 2, 4 and 6.

Allegation 8

275. Dr Sadiq is alleged to have harassed Ms A by sending messages, photographs, with sexual motivation. Whether this amounts to a course of improper, oppressive conduct, causing alarm or distress may be inferred in the context of evidence adduced and taking account of submissions.

276. The GMC adduced evidence of messages sent and Ms A's response. Ms A said she tried to avoid thinking about the alleged assault, but Dr Sadiq continued what is described by the GMC as harassment. On 4 January 2021 a friend told Ms A that it was 'not ok' to

keep getting messages. The GMC has presented a sufficiency of evidence for paragraph 8 to proceed. Whether or not the GMC proves Allegation 8 will depend on the Tribunal's assessment of the veracity and accuracy of Ms A's evidence.

277. Allegation 8 is also ambiguously drafted: is harassment to be established in relation to all four paragraphs 4, 5, 6 and 7 or can the Tribunal properly find harassment in relation to some but not all?

Conclusion

278. The Tribunal took account of all evidence adduced by the GMC, submissions by both counsel and relevant law. It considered the GMC case at its highest. Except in relation to Allegation 1, the Tribunal did not consider that it would be 'unsafe' or unfair for it to proceed to determine the 'outstanding' particulars of the Allegation once Dr Sadiq has had opportunity to present his case. The Tribunal decided that the GMC has adduced sufficient evidence potentially to prove most of the Allegation to the civil standard and that the case should proceed on paragraphs 2-3 and 6-8.

279. The Tribunal allowed Mr Walters' application in relation to paragraph 1 of the Allegation and found no case to answer. Dr Sadiq admitted paragraphs 4 and 5 of the Allegation. The Tribunal determined to refuse Mr Walters' application in relation to paragraphs 2-3 and 6-8 of the Allegation, which will proceed.

ANNEX D – 03/08/2023

Application to amend the Allegation

280. Counsel for the GMC, Ms Duckworth, made an application to amend paragraphs 7 and 8 of the Allegation under Rule 17(6). This would be a clarification to reflect the way the GMC had consistently presented its case. Ms Duckworth submitted that the amendment could be made without injustice.

281. Counsel for Dr Sadiq, Mr Walters, opposed the application. He submitted that such an amendment, at this late stage would be oppressive and unfair, also that it would not clarify the Allegation.

Tribunal's Decision

282. The Tribunal considered that any application to amend the Allegation should have been made before evidence was heard. The proposed amendment would, arguably, make the paragraphs affected easier to prove to the civil standard. This would be unfair to Dr Sadiq.

283. Therefore, the Tribunal refused the application to amend the Allegation. The Tribunal indicated that any ambiguity or disputed interpretation, should be addressed by submissions from both Counsel at the facts stage. The Tribunal would then decide how it should approach paragraphs 7 and 8 of the Allegation.

ANNEX E – 06/11/2023

Application to adjourn

284. On 31 October 2023, Dr Sadiq's application to adjourn this Tribunal hearing was refused by a MPTS Case Manager. On 3 November 2023, Dr Sadiq sent a further email to the MPTS applying to adjourn the Tribunal hearing. His email included a wedding invitation which referred to events on 4 and 5 November 2023.

285. In his email to the MPTS sent at 06:49 on 3 November 2023, Dr Sadiq said that he is not currently in the UK due to his wedding and intended pilgrimage.

'Please see attached the wedding invitation which is followed by a religious pilgrimage as part of the ceremony. I'm currently not in UK due to the wedding ceremony. My wedding was planned nearly 8 months ago. My previous barrister ... did not discuss the MPTS hearing date with myself before confirming it. I have been under extreme stress recently and was not able to realise that the date was close to my wedding otherwise I would have contacted MPTS earlier. I'm no longer utilizing my previous lawyer's services due the reason that he did not inform me about the date before confirming it. Further video and picture evidence will be provided after the wedding ceremony and pilgrimage as it has to prove the location and timing of the wedding. I'm therefore unable to represent myself in these circumstances. I find it completely unfair and unjust that I am not given a chance to defend myself. I would appreciate if you can kindly postpone this hearing. I have very limited internet access and can only reply when I have internet connection.'

286. Counsel for the GMC, Ms Duckworth, opposed Dr Sadiq's application to adjourn the hearing. Ms Duckworth provided a copy of an email from Dr Sadiq's former legal representatives. It said that the dates (for the adjourned hearing) were fixed during the facts stage of this hearing and not by telephone or similar. Ms Duckworth said that there was a lack of independent corroboration of any failure by former counsel for Dr Sadiq.

287. Dr Sadiq was provided with reasons for the Case Manager's refusal of his application to adjourn and was invited to provide any further information. In response to this, Dr Sadiq attached his wedding invitation to his email of 3 November 2023. However, this referred to ceremonies on 4 and 5 November 2023 only.

288. There was no evidence provided by Dr Sadiq that he had sought to overcome difficulties with internet access. It would be feasible for Dr Sadiq to attend his virtual Tribunal despite being abroad. Dr Sadiq could have provided detailed written submissions to this Tribunal, instead of applying to adjourn the hearing. The Tribunal needs to balance the interests of public with those of Dr Sadiq taking account of the overarching objective. Dr Sadiq was aware of the dates of the adjourned hearing at the time of his Interims Order Tribunal, when he was no longer represented by counsel.

289. *R v Jones [2002] UKHL 5* says that a person has a right to be present and to be represented – but this right is waived if they deliberately absent themselves, as Dr Sadiq appears to have done. The likely length of any adjournment would be a relevant factor but Dr Sadiq has not provided information about the length of any pilgrimage or available dates. Ms Duckworth suggested that any potential unfairness to Dr Sadiq could be dealt with by provision of written submissions.

290. Ms Duckworth relied on principles in relevant case law including *Adeogba*.

The Tribunal's Decision

291. In reaching its decision, the Tribunal took account of all the evidence and submissions made before it. The Tribunal also took account of the advice from the Legally Qualified Chair. *GMC v Adeogba [2016] EWCA Civ 162* confirmed that the principles in *R v Jones [2002] UKHL 5* provide a starting point for any decision made to proceed in absence under Rule 31 of GMC FTP Rules 2004

- In exercising the discretion to proceed in absence, fairness to the registrant is a prime consideration, although fairness to the GMC representing the public interest should also be taken into account.
- Any culture of adjournment is to be discouraged. Although attendance by the practitioner is of prime importance, it cannot be determinative.

292. The Tribunal considered the wedding invitation provided by Dr Sadiq. It took account of the fact that the dates given for events were 4 and 5 November 2023 only. The Tribunal was not provided with additional evidence to indicate that Dr Sadiq would be unable to attend his Tribunal hearing, should he wish to do so. No documents alluded to 6-10 November 2023 in relation to wedding, reception honeymoon, pilgrimage or other important events. Dr Sadiq did not provide, for example, any travel tickets or reservations for accommodation.

293. In relation to internet connectivity, Dr Sadiq did not provide evidence of any efforts to access this, or difficulties doing so. The Tribunal considered that Dr Sadiq had not established that he was effectively precluded from attending his hearing or making submissions, orally or in writing.

294. Dr Sadiq was present at the virtual hearing in August 2023 when the Tribunal indicated that it would adjourn to 6-10 November 2023. If his wedding was arranged eight months ago, he should have indicated that he needed to avoid those dates, if there was to be a clash.

295. As there was an absence of evidence in support of his assertion that he could not attend this virtual hearing, the Tribunal determined to refuse Dr Sadiq's application to adjourn.

Proceeding in Dr Sadiq's absence

296. In light of the Tribunal's decision to refuse the application to adjourn these proceedings, the Tribunal considered whether to proceed in Dr Sadiq's absence.

297. The Tribunal considered that Dr Sadiq is aware of these proceedings. He was present when the dates for the reconvened hearing were discussed in August.

298. The Tribunal concluded that Dr Sadiq had voluntarily absented himself from these proceedings. The Tribunal was satisfied that it could deal with this case fairly, taking

account of Dr Sadiq’s ability to provide written submissions. The Tribunal determined to proceed in Dr Sadiq’s absence.

SCHEDULE 1

Wednesday 18 November 2020

18.38hrs

“Are they tracking your isolation?”

19.03hrs

“If not then we can meet today too if u want”

SCHEDULE 2

Thursday 19 November 2020

12.45hrs

“I’m a doctor, I save lives”

12.45hrs

“You can trust me”

12.46hrs

“I’m a nice guy”

12:46hrs

“you don’t have to worry”

SCHEDULE 3

Friday 20 November 2020

21.14hrs

“I understand”

“I thought you wanted to meet tomorrow”

21.15hrs

"I just want a fwb"

"I don't want a gf"

21.34hrs

"So u were kissing me even when I wasn't ur type?"

21.35hrs

"Anyways, I'm looking for a sub. I like to be dominant and prefer a bit of rough sometimes. If you want to try something new then let me know"

Saturday 21 November 2020

18.16hrs

"Hey"

"Wanna hangout"

19.02hrs

"Come over, we can watch something"

19.54hrs

"U like being licked?"

19.55hrs

"Wanna lick u dry"

"I can pick you up"

Sunday 22 November 2020

10.49hrs

"I do respect it"

10.50hrs

"U should respect my decision that I still want u"

20.52hrs

"U got any fetish?"

21.06hrs

"Let's meet"

21.08hrs

"I liked kissing u"

21.09hrs

"U want to hangout"

21.13hrs

"U want to meet"

21.20hrs

"I want to kiss u more"

21.25hrs

"Can we meet?"

21.58hrs

"Give me another chance"

"I'm a nice guy"

Monday 23 November

15.33hrs

"Hey"

"What's up"

17.45hrs

"Wanna come over"

20.31hrs

"You wanna watch a movie?"

21.37hrs

"I can pick you up"

Thursday 26 November 2020

11.15hrs

“Hi”

“How are you?”

Saturday 28 November 2020

17.00hrs

“Hey”

“What’s up”

17.45hrs

“You want watch something, we can chill”

Tuesday 1 December 2020

14.16hrs

“Hey”

“How are you?”

Thursday 3 December 2020

21.07hrs

“Hi”

Monday 4 January 2021

08.08hrs

“Hey”

“How are you?”