

PUBLIC RECORD

Dates: 29/04/2024 - 08/05/2024

Medical Practitioner's name:	Dr Amit CHAWLA	
GMC reference number:	6120336	
Primary medical qualification:	MB ChB 2006 University of Bristol	
Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome**No warning****Tribunal:**

Legally Qualified Chair	Mrs Alison Storey
Lay Tribunal Member:	Ms Wanda Rossiter
Medical Tribunal Member:	Dr Janet Nicholls
Tribunal Clerk:	Mr John Poole

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Richard Smith, Counsel, instructed by the MDDUS
GMC Representative:	Mr David Birrell, Counsel

Attendance of Press / Public

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

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 - 08/05/2024

1. This determination will be handed down in private. However, as this case concerns Dr Chawla misconduct a redacted version will be published at the close of the hearing.

Background

2. Dr Chawla qualified in 2006 from the University of Bristol and went on to specialise in General Practice, qualifying as a General Practitioner in 2012. He has continued to work as a General Practitioner. At the time of the events relating to this hearing, Dr Chawla was working as a General Practitioner for Wigston Central Surgery ('the Surgery'), Leicestershire, where he had started around five years before the concerns.

3. The Allegation that has led to Dr Chawla's hearing relates to concerns that in December 2020 and January 2021, Dr Chawla created entries on the Surgery's IT system falsely indicating that he had consultations with patients when he had not. It is alleged that Dr Chawla booked consultations knowing that they would not take place and to mislead others that they would. It is the GMC's case that Dr Chawla's actions were dishonest.

4. The initial concerns were raised with the GMC on 11 May 2022 by NHS England (Midlands).

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted the GMC's application, made at the outset of the hearing, pursuant to Rule 17(6) of the Rules of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that, paragraphs 14 - 18 of the Allegation be withdrawn. Mr Birrell, Counsel, on behalf of the GMC, submitted that having received Dr Chawla's witness statement, the GMC took the view that there was insufficient evidence to prove those charges. Mr Smith, Counsel, on behalf of Dr Chawla, did not oppose the application to withdraw paragraphs 14 – 18 of the Allegation, and the Tribunal was satisfied that the withdrawals were fair and could be made without injustice and therefore it granted the application.

6. During the course of Dr Chawla's evidence, Mr Birrell made an application to amend paragraphs 1 -4 of the Allegation to better reflect the evidence. Mr Smith did not oppose the application and the Tribunal was satisfied that the amendments could be made without injustice.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Chawla is as follows:
1. On around each of the dates below, ~~you created an entry on the Wigston Central Surgery's IT system (which you knew as 'System One'), falsely indicating that you had held a consultation on that date with the patients below: you booked consultations with the patients below for the dates below:~~ **Amended in accordance with Rule 17(6) of the Rules**
- a. Patient A:
- i. 22 December 2020; **Admitted and found proved**
- b. Patient B:
- i. 22 December 2020; **Admitted and found proved**
- ii. 23 December 2020; **Admitted and found proved**
- c. Patient C:
- i. 6 January 2021; **Admitted and found proved**
- ii. 13 January 2021 **Admitted and found proved**
- Amended in accordance with Rule 17(6) of the Rules**
- iii. 19 January 2021; **Admitted and found proved**
- Amended in accordance with Rule 17(6) of the Rules**
- ~~ii. 12 January 2021;~~
- ~~iii. 13 January 2021 (first entry)~~
- ~~iv. 13 January 2021 (second entry);~~
- ~~v. 19 January 2021;~~
- d. Patient D:
- i. 6 January 2021; **Admitted and found proved**
- ~~ii. 12 January 2021;~~
- Amended in accordance with Rule 17(6) of the Rules**

e. Patient E:

i. 12 January 2021. **Admitted and found proved**

~~2. In respect of each of the occasions at paragraph 1 above, you had not held a consultation with the Patient.~~

2. In respect of the each of the occasions at paragraph 1 above you did not hold a consultation with the patient. **Admitted and found proved**

Amended in accordance with Rule 17(6) of the Rules

3. In relation to your conduct at paragraph 1, you:

a. ~~knew that the entry on each occasion did not relate to a consultation that you had actually held;~~

a. Knew that the consultation would not take place; and **To be determined**

Amended in accordance with Rule 17(6) of the Rules

b. ~~made each entry in order to mislead others into believing that a consultation had taken place.~~

b. Booked the consultation in order to mislead others into believing that you would be consulting with the relevant patient. **To be determined**

Amended in accordance with Rule 17(6) of the Rules

4. Your conduct in paragraph 1 was dishonest by ~~reason~~ virtue of paragraph 3. **To be determined**

Amended in accordance with Rule 17(6) of the Rules

Patient B

5. On around 11 January 2021 you made an entry in Patient B's medical notes falsely stating: '*been seen, nil consultation*'. **To be determined**

6. You knew Patient B had not been seen in relation to the matters set out in paragraph 5. **To be determined**

7. Your conduct in paragraph 5 was dishonest by reason of paragraph 6. **To be determined**

8. On around 11 January 2021 you booked a follow up appointment onto System One for 15:30 on 12 January 2021 for Patient B which you:
- a. did not intend to carry out; **To be determined**
 - b. did not carry out. **To be determined**
9. Your conduct in paragraph 8 was dishonest by reason of paragraph 8a.
To be determined

Patient F

10. You:
- a. failed to record on System One a consultation which you held on 12 January 2021 with Patient F, with the intention that it would appear to others that no consultation had taken place on that date; **To be determined**
 - b. booked, on 12 January 2021, an urgent appointment for 13 January 2021 for Patient F with the intention that others would believe you were carrying out an urgent appointment on 13 January 2021. **To be determined**
11. You knew:
- a. you should have recorded the consultation referred to at paragraph 10a; **To be determined**
 - b. the urgent appointment referred to at paragraph 10b:
 - i. was not required; **To be determined**
 - ii. would not be carried out; **To be determined**
 - iii. would make you unavailable for other appointments.
To be determined
12. Your conduct in paragraph 10a was dishonest by reason of paragraph 11a.
To be determined
13. Your conduct in paragraph 10b was dishonest by reason of paragraph 11b.
To be determined

~~June 2021~~

- ~~14. You personally booked consultations on and for the following dates (the entries);~~

- a. ~~8 June 2021 (for a consultation on 8 June 2021); Withdrawn in accordance with Rule 17(6)~~
- b. ~~8 June 2021 (for a consultation on 9 June 2021); Withdrawn in accordance with Rule 17(6)~~
15. ~~In relation to each of the entries, you:~~
- a. ~~did not intend to carry out any consultation; Withdrawn in accordance with Rule 17(6)~~
- b. ~~made the entries with the intention of making yourself appear unavailable for other patient consultations; Withdrawn in accordance with Rule 17(6)~~
- c. ~~did not carry out a consultation; Withdrawn in accordance with Rule 17(6)~~
16. ~~In relation to paragraph 14a and b you subsequently made a false entry in the medical records indicating that you had held the consultation when you knew that you had not. Withdrawn in accordance with Rule 17(6)~~
17. ~~Your conduct in paragraph 14 was dishonest by reason of paragraph 15. Withdrawn in accordance with Rule 17(6)~~
18. ~~Your conduct at paragraph 16 was dishonest. Withdrawn in accordance with Rule 17(6)~~

The Facts to be Determined

8. At the outset of these proceedings, through his counsel Mr Smith, Dr Chawla sought to make admissions to some paragraphs and sub-paragraphs of the Allegation. The Legally Qualified Chair questioned this as these admissions were at odds with his witness statement particularly in relation to dishonesty, and that any admission can only be announced as admitted and found proved if it is admitted in its entirety.

9. After questions from the Legally Qualified Chair in relation to the test for dishonesty, and after having sought further instructions, Mr Smith withdrew the admissions made on behalf of Dr Chawla. However, following Mr Birrell's application to amend paragraphs 1 – 4 of the Allegation, Dr Chawla admitted paragraphs 1 and 2 of the Allegation as amended, in accordance with Rule 17(2)(d) of the Rules, and these were announced as admitted and found proved in accordance with Rule 17(2)(e) of the Rules.

10. Given the admissions to paragraphs 1 and 2 of the Allegation, and the withdrawal of paragraphs 14 – 18, the Tribunal had to determine paragraphs 3 – 13.

Witness Evidence

11. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Dr A, GP Partner at the Surgery, in person;
- Ms B, Business Practice Manager at the Surgery, via video link;
- Ms C, Personal Assistant to Ms B at the time of events, via video link.

12. These witnesses also provided detailed witness statement and associated exhibits. Dr A's statement was dated 14 October 2022. Ms B provided a witness statement dated 23 December 2022, and a supplemental statement dated 6 December 2023. Ms C provided a witness statement dated 14 November 2023. In their evidence they tried to assist the Tribunal in understanding how the 'System One' booking system worked and how they came to be concerned about Dr Chawla's use of it.

Dr A

13. Dr A was the managing partner at the practice. In his statement he said that Dr Chawla had been at the practice for around four years. There had been some issues in the last two years and he and the then practice manager had held discussions with Dr Chawla and decided to reduce his workload in order to assist him.

14. In relation to these allegations he said that he had noticed that Dr Chawla had booked a consultation for a patient in the morning and afternoon of the same day. He felt that something 'unsavoury' was going on and so the surgery undertook an investigation. This was led by the Practice manager and was to look at previous consultations undertaken by Dr Chawla.

15. He said that it became apparent that Dr Chawla was booking the same patients in for both morning and afternoon consultations on the same day. He also said that Dr Chawla had marked consultations as completed when he had not seen the patient. He said that this theme was occurring in respect of five or six patients.

16. As a result, following an investigation meeting, there was a disciplinary meeting and Dr Chawla was issued with a first and final warning.

17. In oral evidence he confirmed that during the time of the allegations a system was in operation whereby each doctor was allocated 22 cases for the morning list which were expected to take 10 minutes each – a total of 3 hours 40 minutes. He accepted that there were some admin tasks which would potentially take the time required to four hours.

18. He also confirmed that they were content for patients to raise several problems in one consultation, they were not limited to one.

19. He said that when you go into a patients notes at a consultation you finish by pressing save. You should only do this once the consultation was complete. He did not think it could happen inadvertently. There was the option to press discard instead of save, this would take you out of the notes without marking a consultation as complete.

20. It was apparent that Dr A was not entirely clear about exactly how System 1, the patient record system, operated or what the audit trails produced as evidence showed. In particular in relation to how the booking times were shown on the audit trail he appeared to be unaware that the time indicated for the start and end columns were not actual times but a chronological list starting at 08.15 for the first appointment and 8.16 for the next appointment and so on. The end times were all one minute after the start time but did not indicate the actual time. He gave evidence that they were the actual times and pointed to the fact as they only lasted one minute this was evidence that the appointments had not taken place, and that this was evidence of manipulation of the appointments by Dr Chawla.

“no-one consults in a minute, the only way is if you manipulated the appointment list and marked it all at once – arrived, in progress and finished”

21. As Dr A had alleged that Dr Chawla was falsely marking consultations as complete when they had not been completed, it was pointed out to Dr A, as an example, that there was nothing recorded on the audit trail for patient B to indicate that Dr Chawla had started and completed a consultation, only the booking, the other columns were blank. Dr A could not explain this. Ultimately he suggested that this could be clarified better with Ms C who had produced the audit documents.

22. He said that Dr Chawla had raised no issues relating to XXX, nor the computer system. He was aware that Dr Chawla had personal issues XXX. These had been causing him difficulty and the practice had tried to support him. He believed the issues had settled down.

23. He said that in the meeting on 26 January 2021 Dr Chawla could give no explanation as to why he had marked consultations as complete when they had not been completed.

24. He denied that he had put Dr Chawla under pressure at the investigation meeting. He was only seeking clarification on matters.

Ms B

25. Ms B was the Practice Manager at the practice. In her statement she said that during Covid the practice protocols changed and they were holding telephone consultations rather than seeing patients in person. GPs would be allocated 22 patients in the morning and 15 in the afternoon. The bookings were made on a “fair share model”. Patients would call the surgery from 8am and these would be put into the GP’s lists, which the GP would work through. The afternoon lists were usually pre-booked two-three weeks in advance.

26. Doctors were expected to call the patients in their list the same day.

27. She said that Dr Chawla had received training in how to use the new computer system when it was introduced in 2019. This comprised three modules totalling 6 ½ hours. More support was available in the weeks after this if required.

28. She said that Dr A had raised an issue in relation to Dr Chawla as he was seen to be booking appointments into his morning list, and that some patients were booked several times on the same day. They considered that Dr Chawla was filling up his availability with the same 5 patients and that these were false consultations.

29. As a result she checked the phone logs and said that there were no calls logged. An investigation was then carried out using an audit trail feature on the Practice computer system “System One”.

30. She referred to these in detail in relation to the relevant patients. She said that Dr Chawla booked appointments, did not enter any notes of what happened, and marked the consultations as complete on System One.

31. She was of the view that Dr Chawla was abusing the booking system by booking appointments to fill up his morning surgery and that this was inappropriate, unfair and dishonest, because it went against the fair share model, his colleagues having to undertake more consultations than him.

32. She said that Ms C, the Assistant to the Practice Manager, carried out an audit of Dr Chawla’s work and they then held an investigation meeting with Dr Chawla on 26 January 2021. She said that he admitted his wrongdoing but provided no explanation or justification. He was very emotional, upset and quiet. He said it would not happen again.

33. In addition, in oral evidence she said that when a consultation was complete the doctor would save the notes and this would mark the consultation as complete. There was the option to press discard if there was no consultation.

34. She said that she believed that the alleged consultations had not taken place as they had checked the phone records (numbers were recorded) and this record indicated that patients were not called and no notes were recorded in the patients records.

35. She confirmed that (contrary to Dr A’s evidence) the times listed on the audit reflected the chronological list of patients, all one minute apart, not the times recorded for the consultation. She would expect all doctors at the practice to understand that.

36. She gave evidence that the audit trail documents show the appointment as booked, with the time, and whoever booked the appointment. The status would then change to “in progress” and “finished” once the consultation was undertaken.

37. She confirmed that these appointments and consultations occurred during the pandemic and lockdown and that the Practice had changed to having telephone appointments.
38. She referred to the Practice's appointment booking policy which stated that no appointments should be pre-booked by a Clinician into the morning surgery unless they are a follow-up appointment following a previous discussion and a routine appointment was not available soon enough. The Clinician should state the reason for the pre-booking. This part of the policy had not changed as a result of the covid pandemic.
39. With regard to Patient F and the appointment made by Dr Chawla on 12.1.21 for 13.1.21, which was cancelled at 8.58 on 13.1.21, she confirmed that they would continue to book morning appointments up until 10.30 or even 11.00. She agreed that it was cancelled at a time during surgery when it could be filled by another patient ringing in.
40. She confirmed that at the investigation meeting Dr Chawla did not offer the explanation that Patient F's appointment had been booked in error.
41. She confirmed that there had been no falsification of the patients notes, the allegations were in relation to the appointment booking system.
42. She said that although the patient records and the appointment booking system were both on "System One", they are not linked.

Ms C

43. Ms C was the Assistant to the Practice Manager at the practice. In her statement she said that she was asked to investigate the administrative practice of Dr Chawla. She produced audit trails for the appointments which form the allegations.
44. She confirmed that the start and end times contained on these do not refer to the start and end times of the appointments but are the chronological order of the appointments. Clinicians would start their list at 8.30 and the way the Practice used System One was that it would record the first appointment as 8.15 and 8.16 would be their second, and so on. The columns marked arrived/seen and finished correlate with when appointments began and ended.
45. The investigation identified several entries by Dr Chawla that indicated a telephone consultation had taken place when in fact it had not. She came to this conclusion by also checking the Horizon telephone log to see if calls were made.
46. She exhibited the documentation from her investigation. This included the Audit Trails and Patient Consultation notes for the patients referred to in the allegations.

47. Ms C gave oral evidence. She confirmed that the System One data including appointment data and patient records were still available, and if disputed it was still available. The phone data is no longer available as it is only held for two years.

48. She was referred to her exhibits and accepted that in many cases the audit trail only showed a booking, the further columns for starting and completing a consultation were not completed.

49. She was asked why there was no audit trail available in respect of the appointment booked on 11 January for patient B (allegation 8). She said that she did not know.

50. With regard to Patient F and the appointment booked for 13 January 2021 but cancelled by Dr Chawla at 8.58 that morning, she conceded that the cancellation at that time freed up the slot for any patient who needed it.

51. She was asked about what might be shown on the telephone system if the number called was a private number, if the patient had chosen to make their number withheld. She did not know what would be recorded.

52. She confirmed that when dealing with a consultation the doctor would right click on the appointment to show it had started and then right click again when finished. They would finish and save the record.

53. She confirmed that a patient consultation could remain open while a doctor was speaking to another patient.

54. She confirmed that the audit trail did not include the record of consultations entered on the patient record, this was separate, you would need to go into that separately to see what was recorded.

Dr Chawla's statement

55. Dr Chawla provided his own witness statement dated 7 February 2024 and also gave oral evidence to the Tribunal.

56. In his statement he said the incidents in question took place during the Covid pandemic and whilst operating under a new working system. It was a time of high stress and he struggled at times as he was not always sure what was required of him in terms of managing patient lists and in actioning certain issues through System One.

57. He accepted that he was overwhelmed at times and his system of working could be erratic at that time.

58. In response to the allegations he made admissions that he had made bookings that appeared to show that he had completed consultations when he had not. He said this

occurred as he had opened the patient record intending to review the patient and he had then closed the record without realising this would mark the consultation as complete. He accepted that this would indicate to others that he had completed a consultation when he had not.

59. He did not make any entries in the patients notes indicating that a consultation had taken place when he had not reviewed the patient.

60. He accepted that he went onto rebook those patients but it did not occur to him that this would be seen as a deception. He was aware that the patient had not been reviewed and this still needed to happen. He had not made it clear that this is what he had done and accepted that he should have asked reception staff to rebook them, and that this was poor judgement on his part.

61. At that time he become overwhelmed by his workload and was anxious about being unable to keep up, he was missing breaks and was working well after his session had officially ended.

62. He accepted that these actions were dishonest as he should have been aware that the expectations of anyone seeing the appointment ledger would have believed that a consultation had taken place, and he should have considered this at the time.

63. He therefore admitted allegations 1-4.

64. He denied allegations 5-7 (now conceded by the GMC as being evidentially insufficient).

65. He admitted allegation 8-9 on the same basis as 1-4.

66. He denied allegation 10a as he had made a consultation note (now conceded by the GMC as evidentially insufficient).

67. He admitted 10b in part. He accepted that he did book an urgent appointment on 12 January for Patient F on 13 January, but said this was in error and that when he realised his error, he immediately cancelled the appointment at 8.58 on 13 January 2021 well within the times of open session and the slot was not blocked from that time onwards.

68. He denied allegations 11-13 as he had made a record of the consultation on 12 January, contrary to the allegation in 11a (now conceded by the GMC as evidentially insufficient). Further that he did not act dishonestly in respect of that appointment.

Dr Chawla's oral evidence

69. In oral evidence he accepted that he had received the training on System One, and that he felt he had grasped the basics. He said that he was probably not using System One

exactly as taught. He reported that he did not use the save button on the screen and instead used one of the F function keys.

70. He said that in December 2020 and January 2021 it was during the Covid pandemic and lockdown and the practice was very busy. In addition he was dealing with personal stressors, in relation to XXX. This also meant it was difficult to turn to his family for support.

71. He said that it was a very tough time and he was not getting the support he needed. He was under a huge strain and felt he was running on adrenaline to do his job to the best of his ability, to support his family and his colleagues, but was still somehow failing.

72. With regard to the allegations he accepted that he made the appointments in allegations 1-2, but he said that he had not made any entry stating that he had undertaken a consultation. He had been falling behind but he knew that they needed a review and having run out of time he intended to review them on another occasion. It was always his intention to carry out these reviews.

73. He accepted that he had given no indication on the appointments ledger that this was what had occurred.

74. In relation to the admissions made in his statement he said that these were based upon what he was told by the practice in the meetings he had, that they were marked as completed. He knew that he had not completed those consultations.

75. He did not recall what evidence was presented to him at the meetings when told he was marking consultations as completed and he was not shown anything to support that, but he accepted what they said. But his main concern was that he felt he wasn't doing his fair share. He accepted dishonesty when put to him, he was trying to see it from their perspective, how it appeared to them, but his intention at the time was to see the patient. He said that this had affected his approach to the case before the Tribunal.

76. In regard to patient A he accepted that his note at 8.43 indicated a failed encounter but he had marked it as complete. He said that he had made the note and saved it, this had caused it to mark the consultation as complete. He accepted that there was no consultation with the patient.

77. In regard to patient B he had reviewed and referred the patient to orthopaedics. He accepted that it was not a consultation but he had opened the notes to review the patient and then made the note about the referral and then saved that as it needed to be in the records. It was his error that this then appeared as a completed consultation by saving.

78. He accepted that by going into the notes and then saving them this created an impression a consultation had taken place, but that it was apparent from the patient notes what work he had done for the patient.

79. In regard to Patient C he said that he did complete a consultation with the patient on 19 January 2021, but did not update the patient notes until 20 January 2021. He was not sure how this generated the “completed” column on the audit trail seen. He may have opened the notes and closed them by pressing save, not discard, by mistake.

80. Re patient D he made the booking but did not consider that it would appear as a completed consultation.

81. Re Patient E he said that on 11 January he completed a consultation and made a lengthy note. The consultation booked for the next day was an error, he intended to book the patient for one week hence, as stated on the consultation note. It was not made with the intention to deceive anyone.

82. Re Patient B and the appointment said to have been booked by him for 15.30 on 12 January 2021, he said that he had previously admitted this but he had seen no evidence that he had in fact booked it and had no recollection of booking it and so he could not admit that he had. However, if he had booked it then it would not have been made with the intention to deceive.

83. He accepted that he had been working at the practice for some years and was familiar with procedures.

84. He denied knowledge of the policy document which stated no appointments were to be booked by clinicians in the morning and he had observed other doctors doing this, including Dr A. He accepted it was the norm for reception to book appointments, but the policy now seen does give a discretion.

85. He was referred to the conditions attached to the discretion, which were that a routine appointment was not available soon enough and the reason should be stated.

86. He said that he made the booking according to clinical need and had made the mistake of prioritising that over the policy. He had considered whether a routine appointment was available, but these were booked up weeks in advance. The policy allowed him to book in the morning if an appointment was required sooner.

87. With regard to the second condition, he said that as the booking notes had not been produced he could not say whether he had stated a reason for the booking.

88. He was questioned about why he had withdrawn his admissions in respect of allegations 1-4. He said that he denied the mental element.

89. He was questioned about why he had admitted allegation 8 in his statement but was now denying making the appointment. He said that he could not say whether he had booked it without an audit trail, he had accepted what Dr A said at the time. He had not noticed the absence on an audit trail. He denied cynically using the gap in the evidence.

90. He was referred to para 14 of his statement and said that these patients still required review and he intended to review them and he rebooked them to achieve that. There was a medical matter outstanding that he felt needed to be dealt with. He considered that a review was a consultation, and he needed to see them.

91. He was asked about the investigation meeting. He accepted that he was told which patients were to be discussed and that the meeting was with colleagues and it was for him to give his explanation. He did not recall being given an Agenda for the meeting.

92. It was put to Dr Chawla that it was not an intimidating meeting, but Dr Chawla said that it was very stressful and he struggled to process what he was being asked. He found the tone quite intimidating. He was not given sight of the information they were relying on and he was doing his best to answer the questions, but he struggled. He was trying to manage his feelings and felt he needed more time to process, this impacted how he answered the questions.

93. It was put to Dr Chawla that he had not raised the issue of XXX at the investigation meeting in January. He said that the meeting was being recorded and he did not want private matters being recorded. He asked but it was not possible to stop the recording.

94. Whilst he conceded that later in the interview Ms B made a supportive comment, that she wished he had come to them sooner with his problems, he said that both Ms B and Dr A were aware of his issues and he was surprised at the comment.

95. He was asked about the admissions made in that meeting and he said he was trying to see it from their perspective, he was told by Dr A that he had been marking consultations as complete.

96. He had raised the issue of his workload with Ms B previously and asked for help, for his patient numbers to be capped but this had been refused. He was signalling that he was struggling.

97. In relation to the disciplinary meeting he was asked about why he had said he was booking in patients who were not necessarily expecting a call. He said that this could be if information came to light such as test results or from previous consultations. He was responding to the patients' needs. It was put to him that this was a bit of a gamble as the patient might not be available, but he said that he would still ring if there was a clinical need.

98. It was suggested to Dr Chawla that he had not referred to XXX in the disciplinary meeting on 10 February 2021. He pointed out that he had made reference at pages 95 and 101 of those notes, but he felt unable to expand as again the meeting was being recorded. Dr Chawla accepted that XXX did not excuse dishonesty, he was not putting that forward, XXX.

99. He denied that he was making fictitious bookings to give himself breathing space. He said that he worked steadfastly from arrival until the end of the day.

Documentary Evidence

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

- Referral form from NHS England (Midlands) providing summary of concerns dated, 11 May 2022;
- The Surgery's Appointment booking policy before and during the coronavirus pandemic
- Evidence of System One training undertaken by Dr Chawla in 2019
- Audit records of patient bookings on System One relating to the various bookings in the Allegation
- Consultation Notes relating to several of the patients
- Minutes of meetings with Dr Chawla regarding the concerns and findings from the local investigation.

Submissions

Mr Birrell

101. On behalf of the GMC Mr Birrell submitted that Dr Chawla was well acquainted with the surgery and booking policy and he knew that he should not be booking appointments in the morning. He had received 6 ½ hours training on System One and had never raised concerns.

102. He submitted that Dr Chawla's explanations regarding the appointments in the case of 1b and 1c showed a course of conduct as there were multiple appointments.

103. He said that Dr Chawla's explanation that he had booked appointments with patients without their knowledge was illogical, and he was really booking appointments to fill his diary.

104. He submitted that the mistakes Dr Chawla said he made on 11 January and 12 January 2021 were unlikely "lightning doesn't strike twice in two days". This was incredible.

105. He referred to the fact that Dr Chawla's position had changed. He had not given the explanations the Tribunal had heard, in the earlier investigation and disciplinary meetings, nor did they feature in his witness statement, where he had originally admitted allegations 1-4. In relation to allegation 8 he said that the change in position was due to Dr Chawla exploiting a gap in the evidence. There was no audit trail, but there was a contemporaneous note from Dr A.

106. With regard to the personal issues raised by Dr Chawla he suggested this was a double edged sword, if Dr Chawla was overwhelmed it may have affected his judgement and he may have been booking false appointments to lighten his load.

Mr Smith

107. On behalf of Dr Chawla Mr Smith pointed to there being significant changes to both the GMC and the doctor's case.

108. Dr Chawla had admitted dishonesty at an early stage accepting what he was told, that he had booked appointments and not completed them but had marked them as complete, and that people would think that dishonest. He did not want to contest what was being said.

109. He withdrew those admissions and his lawyers accepted responsibility for the state of affairs.

110. His position has remained consistent, that these were not false appointments booked without an intention to carry out a consultation. He ran out of time and rebooked the appointments. Although that was not in line with policy it did not make it dishonest. He also pointed to the complete misunderstanding of the system by Dr A regarding the start and end times included on the audit trail documents.

111. He said that there was no dispute that Dr Chawla was trained in System One but people do develop their own habits as time goes on which is not necessarily exactly as trained.

112. Regarding the investigation meeting he said that Dr Chawla did find it intimidating. He suggested that anybody might find Dr A intimidating.

113. He said that there were no false clinical records alleged, only the booking system, and this still depends on his intent. He said that it was not even a pervasive problem, only eight occasions over four weeks, it is not a big number. It did not point to a malign intent and it would be odd to say that this number definitely established an intent to mislead. This case did not come close to such an inference.

114. He submitted that the GMC case was that there was no intention to consult, just to block out time in his diary.

115. In five of the appointments nothing took place as he ran out of time. There was nothing incredible about that in view of how long it took him to do the work and the stress he was under.

116. He was not making phantom appointments. These were cases where the patient had ongoing problems, or test results were received. The full consultation records are not

available and so it cannot be seen why Dr Chawla made appointments, we only have snippets.

117. With regard to Patient B there was an MRI result to deal with. With other patients there is insufficient information but it is for the GMC to prove there was no reason for the patient review. If there was a reason for review the GMC case will fail but also if the GMC don't prove there was no reason the case will fail.

118. He said that the appointments for Patient E and Patient F were mistakes, that was not extraordinary. There was no good reason to doubt his explanation unless you were being unduly cynical.

119. The GMC have made a case ignoring the explanations put forward by Dr Chawla. There was a lack of cogent evidence, it was conjecture.

120. The GMC had dropped allegations 5-7 after cross examination, but they should have dropped them before as there was never any evidence for those allegations.

121. Regarding allegation 8 the witness evidence wording suggested that there was an audit trail to establish that Dr Chawla booked the appointment at 15.30 on 12 January 2021, but all there is, is a note by Dr A. The audit trail should have been produced to see if he is correct or not. The note does not even suggest that it was timed at 15.30. He invited the Tribunal to draw an adverse inference in respect of this lack of documentation.

122. With regard to allegation 10b Dr Chawla had accepted that he had booked the appointment in error, he had different patient notes open and it was booked for the wrong patient. Ms C confirmed that it was possible to have two patient records open at once. Further, there was no expert evidence available about the way System One worked and therefore Dr Chawla's account can be accepted.

123. He reminded the Tribunal that they should only find the allegations proved if the conduct was deliberate, with an intention to deceive. Dr Chawla did not make the appointments with an intention to deceive and denied he was dishonest.

The Tribunal's Approach

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

125. The Legally Qualified Chair referred the Tribunal to the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Limited [2017] UKSC 67*, in which Lord Hughes set out the correct test for dishonesty, which is as follows:

‘When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’

The Tribunal’s Analysis of the Evidence and Findings

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

127. When considering this case the Tribunal noted that there were no clinical concerns about Dr Chawla, although concerns had previously been raised regarding his timekeeping and ability to keep on top of his workload.

128. The Tribunal was conscious of the circumstances of the events in December 2020 and January 2021. This was during the Covid-19 pandemic and lockdown when GPs were under pressure and when new systems of work were being put in place. Notably, telephone consultations were taking place rather than face-to-face consultations and this required a revised booking system for morning appointments which had not existed prior to the pandemic as patients simply turned up from 8am and all were seen.

129. The Tribunal accepted that Dr Chawla felt stressed and under pressure from his workload. It noted there was a significant workload involved in undertaking 22 telephone consultations in the morning session. If ten minutes were allocated to each consultation, this would take 3 hours and 40 minutes without any break. Further not all appointments would necessarily only take 10 minutes, patients with more complex or multiple issues may take longer, in particular as the practice had a policy of not limiting the consultations to one issue. Dr Chawla said that he struggled to complete the consultations in the morning and often had to work without a lunch break. Following this there was an afternoon list to complete usually limited to 15 patients.

130. The Tribunal also bore in mind Dr Chawla’s personal circumstances at the time. In his evidence he stated that he was having personal difficulties, XXX. The Tribunal accepted that he felt stressed and under pressure and did not want to let his patients or his family down. The Tribunal noted that Dr Chawla had spoken to the previous Practice Manager and Dr A about his personal difficulties, as well as the Practice Manager at the time of the events, Ms B. It considered that whilst Dr Chawla’s personal difficulties may not have been widely shared in the Surgery, the Surgery was aware of them. The Tribunal also noted that Dr Chawla had

asked for a reduced number of patients in the morning as he was struggling with his workload.

131. The Tribunal considered that the GMC witnesses did their best to assist it in the Tribunal's understanding the System One computer system. However, it was apparent that they did not have a full understanding of the system and the telephone system and their understanding related more to their own roles and use of System One rather than that of Dr Chawla's. The Tribunal considered that they provided opinions and drew inferences from the audit trail without a full knowledge of all the records and Dr Chawla's actions.

132. In particular it was evident that Dr A did not have an understanding of how booked appointments appeared on the audit trail and mistakenly believed that Dr Chawla had opened and completed consultations in one minute and he took this as evidence that Dr Chawla was manipulating the system. This was not accurate.

133. Further during the Practice investigation Dr Chawla was questioned about marking consultations as complete on the system, but the majority of the appointments did not show anything other than a booking. The witnesses did not appear to have appreciated that and it had to be pointed out to them in cross examination on behalf of Dr Chawla.

134. This appeared to be part of the allegation of dishonesty put to Dr A and led him to accepting that he had done this, albeit he said it was inadvertent, that he must have marked the consultation as complete when he opened and closed the consultation. He had not had sight of the audit trails at that time and he accepted what was put to him about what was found. It was incorrect, and although he had admitted this conduct in fact the audit trail showed that he had not done this in a large number of these allegations.

135. The Tribunal did not accept that the investigation meeting would have been a relaxed and congenial environment for the concerns to be discussed. It accepted that Dr Chawla would have felt intimidated, as he was faced with three doctors and the practice manager and was being accused of serious wrongdoing. The Tribunal considered that this would be a stressful situation for anyone in Dr Chawla's situation, quite apart from the stress he was already under due to the not inconsiderable difficulties he was dealing with in his life. He had been given 48 hours' notice beforehand, but there is no evidence he had been provided with the agenda or patient notes or audit trails to enable him to properly answer the allegations put. As already stated the allegations were not entirely correct which added to the difficulty Dr Chawla faced in these meetings.

136. The Tribunal also noted that the GMC case had changed over the course of the hearing. There was an application to withdraw allegations 14 -18 as there was insufficient evidence to proceed with them. There was an application to amend allegations 1-4 after the evidence had been heard and it was apparent that the evidence did not support them in their current wording. In closing the GMC conceded that there was insufficient evidence in relation to allegations 5-7 and 10a, 11a and 12. This is an indication that the GMC had not fully understood what the documentary evidence disclosed before the evidence was fully

examined during the hearing. It would be unreasonable to expect Dr Chawla to have had a better understanding of the detail of the evidence than the lawyers in the case and to criticise his change of position with regard to his previous admissions in the light of the evidence.

137. For these reasons the Tribunal did not consider the admissions made in the meetings were of significance to their determination in this case. Overall, the Tribunal was persuaded by Dr Chawla's evidence and accepted his reasons for why he initially made admissions. It had been put to him that people might see his entries on the system as dishonest, and he had accepted this as he could see how it would look to them.

138. The Tribunal was conscious that the GMC were suggesting that the number of appointments which were booked and did not take place was a significant number and this pointed to an inference that they were false appointments. The number of alleged fictitious appointments made by Dr Chawla in this four week period is eight. This is in a four week period when it appears Dr Chawla was working three days a week and expected to see 37 patient each day. It means that there are 8 out of around 400 appointments. The Tribunal do not consider this to be a significant figure and if the motive was to carry out less work and provide some breathing space it would not have achieved very much, an average of only 20 minutes a week.

139. The Tribunal considered it was unlikely that Dr Chawla, a man of good character, was dishonestly creating fictitious appointments to give himself such a relatively small amount of free time per week to take some pressure off. The Tribunal considered it was more plausible for a doctor under pressure to have found himself unable to carry out consultations as planned and moved them forward.

In addition it was suggested that Dr Chawla's assertion that he had made errors in two bookings (Patient E on 11 January 2021 and Patient F on 12 January 2021) was not likely, but the Tribunal did not agree. Two errors over the course of two days in relation to booking appointment, one of which was rectified the next morning was not so unlikely as to allow an inference that they were deliberate. The pattern was not significant.

Paragraph 3a and 3b

Patient A – Paragraph 1.a.i

140. The Tribunal considered whether Dr Chawla knew the consultation he booked for Patient A for 22 December 2020 would not take place and whether he booked it to mislead others into believing that he would be consulting with Patient A.

141. The Tribunal had regard to the Audit Trail for Patient A's appointment. This showed that on 21 December 2020 at 16:15, Dr Chawla booked a consultation for Patient A on 22 December 2020.

142. The Tribunal had regard to the consultation information sheet which showed that on 22 December 2020, at 08:43, Dr Chawla opened Patient A's appointment and recorded that he had attempted to call Patient A *'In view of recent USS – for bloods to screen liver'*. He recorded a failed encounter and that he left a message on Patient A's answer machine. The Tribunal also noted that Dr Chawla logged into the patients record again at 17:05 and recorded *'No answer again, will try tomorrow. Failed encounter – message left with household member.'*

143. The Tribunal was told there was no record of Dr Chawla calling Patient A, however, it was mindful that the GMC witnesses could only provide opinions in relation to their understanding of the phone system. No expert evidence was received in relation to its functioning and how and what would be recorded. Neither were there any actual telephone records available to the Tribunal, only the notes made by Ms C of her findings. The Tribunal considered that there was not sufficient evidence to establish that Dr Chawla had not attempted to call Patient A.

144. In his evidence Dr Chawla said he had booked the consultation for 22 December 2020 because he intended to contact them in relation to the recent ultrasound results. The Tribunal considered that the fact that Dr Chawla made two contemporaneous notes on the patient record supports this. The Tribunal considers this to be more persuasive evidence than the evidence of Ms C, particularly when no actual telephone evidence has been produced.

145. Given that he noted that he did try to contact Patient A twice, the Tribunal concluded that Dr Chawla did intend to hold the consultation. It therefore found paragraph 3a in relation to paragraph 1.a.i not proved.

146. Furthermore, the Tribunal was not satisfied that Dr Chawla booked the consultation in order to mislead others into believing that he would be consulting with Patient A when he would not. It noted that Dr Chawla actively sought a consultation with Patient A by attempting to call them. It noted that it would have taken him time to access Patient A's notes, attempt contact with Patient A and make notes in the record. The Tribunal considered that this was not consistent with the suggestion that he created a fictitious appointment in order to give himself some free time. The Tribunal therefore found paragraph 3b in relation to paragraph 1ai not proved.

Patient B – Paragraph 1.b.i & 1.b.ii

147. The Tribunal considered whether Dr Chawla booked the consultations for Patient B for 22 December 2020 and 23 December 2020 knowing that they would not take place and whether he booked them to mislead others into believing that he would be consulting with Patient B.

148. The Tribunal had regard to the Audit Trail for Patient B's appointments. This showed that on 21 December 2020 Dr Chawla booked a consultation for Patient B for 22 December

2020 but this did not take place and that on 22 December he rebooked it for 23 December 2020.

149. The Tribunal noted Dr A's consultation note on 16 December 2020 which recorded that Patient B was *'still struggling with pain in shoulder'*

150. The Tribunal noted that the Audit Trail showed that Dr Chawla had the result of an MRI scan. Dr Chawla's evidence was that he intended to phone Patient B to advise them of the results and that he would make a referral to orthopaedics. The Tribunal considered that it was logical that the results needed actioning and that it was not unreasonable that if Dr Chawla did not have time to on 22 December 2020 to move the appointment to the following day as he suggested he did.

151. On 23 December the audit trail shows that he did open the consultation at 12.17 and marked it complete at 13.36. He made a note in the patient records at 12.18 indicating that he had instigated a referral to Orthopaedics. He accepted that he had not called the patient, instead moving on to referral to orthopaedics in view of the MRI. He said that he had opened the consultation and then carried out this task. When finished he saved his note. This had the effect of marking the consultation as complete. He said that if he had not saved but discarded then his note would not have been saved in the patient record, which it needed to be.

152. The Tribunal determined that the evidence was insufficient for it to conclude that Dr Chawla knew the appointments on 22 December 2020 and 23 December 2020 would not take place. Further, the evidence does not support the allegation that he had booked the consultations in order to mislead others into believing that he would be consulting with Patient B on these dates. The fact that he progressed patient management on 23 December 2020 is not consistent with the allegation that he was creating a fictitious appointment to give himself free time. He was in fact carrying out patient review and sought progress of patient management.

153. The Tribunal therefore found paragraph 3.a and 3.b not proved in relation to paragraph 1.b.i and 1.b.ii.

Patient C – Paragraph 1.c.i, 1.c.ii & 1.c.iii

154. The Tribunal considered whether Dr Chawla knew the consultations he booked for Patient C for 6 January 2021, 13 January 2021 and 19 January 2021 would not take place and whether he booked them to mislead others into believing that he would be consulting with Patient C.

155. The Tribunal had regard to the Audit Trail for Patient C's appointments. This showed that on 30 December 2020, Dr Chawla booked a consultation for 6 January 2021. The consultation did not take place on 6 January 2021.

156. On 12 January 2021 at 13:03 Dr Chawla rebooked the appointment for 13 January 2021 and at 12:08 on 13 January 2021 rebooked it for 19 January 2021.

157. Dr Chawla's explanation was that he did not get time to carry out the consultation on 6 January and he rebooked the appointment. On 13 January he again did not have time and so again pushed the appointment back, to 19 January, when he did carry out the consultation.

158. The Tribunal noted the times at which Dr Chawla pushed the appointments back, namely at 13:03 on 12 January 2021, and 12:08 on 13 January 2021. Whilst this would not have been at the end of the day, it would have been towards the end of his morning lists, and it does not appear to the Tribunal that it would be incredible or even unreasonable for him to have decided at that point that he would not have time to complete it that day. In relation to 6 January although not forming part of the allegation this appointment was rebooked at 14.37 for the next day, it is not evidentially clear who by. There is a lack of clarity about what happened on 6 January.

159. The Tribunal noted the consultation information sheet which showed an entry in Patient C's notes by Dr Chawla at 13:44 on 20 January 2021. He recorded that he had made a call 'regarding mental health from yesterday' and had called and left a message on Patient C's mum's voicemail for her to call back.

160. This is supported by a note recording that on '20/01/21 – Mum called back as she had missed a call from Dr Chawla...'

161. As the patients records supplied are 'snippets' rather than a complete record, the Tribunal cannot know all of the consultations that may have taken place with the patient within the timeframe in question.

162. The Tribunal was not satisfied that the evidence supports the contention that Dr Chawla had booked the consultations to give himself some free time. Whilst he did not record on 19 January 2021 that he had attempted to contact Patient C's mother, and recorded this the following day, this is more consistent with Dr Chawla's evidence in relation to time pressures, rather than evidence that he was seeking to mislead others. There is no clear evidence that this was his motive, the Tribunal is asked to infer that from the circumstances. However an inference should only be made if there is no other explanation. In this case the Tribunal has Dr Chawla's explanation which it does not consider to be in any way unbelievable. The Tribunal would have to be satisfied that Dr Chawla's explanation was not worthy of belief in order to draw the inference urged upon it by the GMC.

163. The Tribunal concluded that Dr Chawla did not book the consultations with Patient C for 6 January 2021, 13 January 2021 and 19 January 2021, knowing that they would not take place. It further concluded that the evidence does not support the allegation that he had booked the consultations in order to mislead others into believing that he would be consulting with Patient C on these dates.

164. The Tribunal therefore found paragraph 3.a and 3.b not proved in relation to paragraph 1.c.i, 1.c.ii and 1.c.iii.

Patient D – Paragraph 1.d.i

165. The Tribunal considered whether Dr Chawla knew the consultation he booked for Patient D for 6 January 2021 would not take place, and whether he booked it to mislead others into believing that he would be consulting with Patient D.

166. The Tribunal had regard to the Audit Trail for Patient D. This showed that at 12:19 on 30 December 2020, Dr Chawla made the appointment for 6 January 2021. The Tribunal noted that on 6 January 2021 another appointment was made for 12 January 2021 though it was unclear by whom.

167. Dr Chawla said that he had intended to carry out the consultation on 6 January 2021 but did not have time.

168. The Tribunal considered that there was a lack of information for why the appointment did not go ahead of 6 January 2021. However, it noted the consultation information sheet on 13 January 2021 which showed that at 11:48 Dr Chawla made a detailed entry summarising a conversation he had with Patient D's mother, which suggest a familiarity with the case.

169. The Tribunal considered that there was insufficient evidence to infer that just because an appointment did not go ahead on 6 January 2021, that Dr Chawla knew it would not go ahead when he booked it on 30 December 2021, particularly when there was an effective rebooking of the appointment on the same day for 12 January 2021 by persons unknown.

170. Given Dr Chawla's evident familiarity with the case, the Tribunal considered it very unlikely that he had no intention in undertaking the consultation. It concluded that the evidence is insufficient to support an allegation that Dr Chawla booked the consultation in order to mislead others into believing that he would be consulting with Patient D on 6 January 2021.

171. The Tribunal therefore found paragraph 3a and 3b not proved in relation to paragraph 1d.i.

Patient E – Paragraph 1e.i

172. The Tribunal considered whether Dr Chawla knew the consultation he booked for Patient E for 12 January 2021 would not take place, and whether he booked it to mislead others into believing that he would be consulting with Patient E.

173. The Tribunal had regard to the Audit Trail for Patient E which showed that at 11:11 on 11 January 2021 Dr Chawla booked a consultation for Patient E for 15:30 on 12 January 2021.

174. The Tribunal noted that Dr Chawla had had an appointment with Patient E on 11 January 2021. The Consultation Information Sheet showed that Dr Chawla made a detailed entry at 11:01 regarding the consultation with Patient E and he made a note to review next week (*'r/v next week'*).

175. Dr Chawla's evidence was that he intended to review Patient E the following week as per his note and that he booked the review, in error, for the following day rather than the following week. The Tribunal considered that it was not safe to draw an inference that it must have been a deliberate act, in the light of the explanation which the Tribunal found to be plausible, and considered it more likely than not that the consultation was booked in error. It was not persuaded that it could be inferred that it was intentionally booked for the next day, rather than an error.

176. It was not satisfied therefore, that he was booking a consultation knowing that it would not take place, and with intention to mislead others.

177. The Tribunal therefore found paragraph 3a and 3b not proved in relation to paragraph 1e.i.

Paragraph 4

178. Given that the Tribunal found paragraphs 3a and 3b not proved in relation to all of paragraph 1, it follows that paragraph 4 is not proved.

Paragraphs 5, 6 & 7

179. These paragraphs of the Allegation allege that on around 11 January Dr Chawla made an entry in Patient B's medical notes falsely stating: 'been seen, nil consultation.' It was alleged that Dr Chawla knew he had not seen Patient B, and therefore his entry on 11 January 2021 was dishonest.

180. At the outset of his submissions on the Facts, Mr Birrell, on behalf of the GMC, conceded that there was insufficient evidence to prove paragraphs 5 to 7 of the Allegation. The Tribunal agreed and therefore found paragraph 5 to 7 not proved.

Paragraph 8a – 8b

181. The Tribunal considered whether Dr Chawla on around 11 January 2021, booked a follow up appointment for Patient B for 15:30 on 12 January 2021, which he did not intend to carry out and did not carry out.

182. The Tribunal was concerned that whilst it had received an audit trail regarding all of the Patients in the allegations, and for Patient B for other appointments, it had not received

an audit trail for this specific appointment. Moreover, when cross-examined by Mr Smith, Ms C could not explain why there was not an audit trail for this appointment.

183. The Tribunal also noted that the patient records were anomalous. There was a page of patient record which included consultations on 5 and 6 January and then an entry for 19 January. But a further page was provided containing only a consultation from 12 January. It appeared odd that this consultation from 12 January did not appear chronologically in the records, between 6 January and 19 January.

184. The only evidence is a note made by Dr A on 12 January 2021 at 10:45 in which he wrote that Dr B was on Dr Chawla's list on 11 January 2021 '*He has marked him as seen, nil in consultation and has then put him back on for a consultation 12.1.2021*'. There is no further corroborative evidence to support Dr A's note. The Tribunal were not satisfied that this was sufficient evidence on which to conclude that Dr Chawla did in fact make this appointment. There is no mention of any time of the appointment in the note and it is not clear where the time of 15.30 referred to in the allegation has come from.

185. The Tribunal also had in mind that in his oral evidence Dr A had shown a lack of understanding of some aspects of the computer systems and the audit trails produced. It would not be safe to rely upon his note to establish that Dr Chawla made this specific appointment.

186. Furthermore, the Tribunal had regard to the consultation information sheet which showed an entry made by Dr Chawla in Patient B's record at 12:50 on 12 January 2021, which suggests Dr Chawla was progressing patient management.

187. Given the paucity of the evidence, the Tribunal was not satisfied that Dr Chawla booked a follow up appointment for Patient B which he did not intend to carry out and did not carry out.

188. The Tribunal therefore found paragraphs 8a and 8b not proved.

Paragraph 9

189. Given the Tribunal's findings in relation to paragraph 8 of the Allegation, it follows that paragraph 9 is not proved.

Paragraph 10a

190. The Tribunal considered whether Dr Chawla failed to record on System One a consultation which he held on 12 January 2021 with Patient F, with the intention that it would appear to others that no consultation had taken place on that date.

191. The Tribunal noted Mr Birrell's submissions that paragraphs 10a, 11a and 12 could not be established. He accepted that exhibit evidence did not support the charge as there was a consultation note made by Dr Chawla on 12 January 2021 available in the evidence.

192. The Tribunal agreed that it had not received sufficient evidence to support this paragraph of the Allegation. Accordingly, the Tribunal found paragraph 10a not proved.

Paragraph 10b

193. The Tribunal considered whether on 12 January 2021, Dr Chawla booked an urgent appointment for 13 January 2021 for Patient F with the intention that others would believe he was carrying out an urgent appointment on 13 January 2021.

194. The Tribunal had regard to the audit trail for the appointment which showed that on 12 January 2021, Dr Chawla booked an appointment for the morning of 13 January 2021, and that on 13 January 2021 he opened the appointment and cancelled it at 08:58.

195. Dr Chawla's evidence was that he had a consultation with Patient F on 12 January 2021 and when he booked the appointment on 12 January 2021 for the next day, it must have been an error. This could have occurred as he could have more than one consultation open on his computer and the appointment should have been made for another patient. He said that when Patient F appeared on his list on 13 January 2021, he must have realised it was a mistake and so cancelled it at 08:58. The Tribunal considered that this was not an unreasonable explanation.

196. The Tribunal was also mindful that in cancelling the appointment at that time, the slot would have been available for another patient to be booked in. In her evidence, Ms B said that the cut off time for booking appointments for morning surgery was 10:30 to 11:00. In view of the fact that Dr Chawla's list could have been filled with another appointment by reception staff, the Tribunal was not persuaded that Dr Chawla was creating a fictitious appointment to give himself some free time.

197. That contention might hold more weight had Dr Chawla waited until after 11:00 to cancel the appointment, when it was too late for another patient to be booked in. However, he seemingly cancelled it in good time for it to be filled and given how busy the Tribunal were told the morning surgeries were, there would be every reason to expect that it would be booked by another patient. This supports Dr Chawla's contention that he must have booked it in erroneously, by cancelling as he did there was no real prospect of him achieving any extra free time by the original booking.

198. The Tribunal therefore found paragraph 10b not proved.

Paragraph 11a

199. Given the paragraph 10a was not proved, it follows that paragraph 11a is not proved, as conceded by counsel for the GMC.

Paragraphs 11b.i, 11b.ii & 11b.iii

200. Given that paragraph 11b relates to paragraph 10b which the Tribunal found not proved, it follows that paragraphs 11b.i, 11b.ii & 11b.iii are also not proved.

Paragraph 12

201. Given Mr Birrell's concessions, and the Tribunal findings in respect of paragraphs 10a and 11a, the Tribunal found paragraph 12 not proved.

Paragraph 13

202. Given that the Tribunal found paragraphs 10b and 11b not proved, it follows that paragraph 13 is not proved.

The Tribunal's Overall Determination on the Facts

203. The Tribunal has determined the facts as follows:

1. On around each of the dates below, ~~you created an entry on the Wigston Central Surgery's IT system (which you knew as 'System One'), falsely indicating that you had held a consultation on that date with the patients below:~~ you booked consultations with the patients below for the dates below: **Amended in accordance with Rule 17(6) of the Rules**

a. Patient A:

i. 22 December 2020; **Admitted and found proved**

b. Patient B:

i. 22 December 2020; **Admitted and found proved**

ii. 23 December 2020; **Admitted and found proved**

c. Patient C:

i. 6 January 2021; **Admitted and found proved**

ii. 13 January 2021 **Admitted and found proved**

Amended in accordance with Rule 17(6) of the Rules

- iii. 19 January 2021; **Admitted and found proved**

Amended in accordance with Rule 17(6) of the Rules

- ~~ii. 12 January 2021;~~
~~iii. 13 January 2021 (first entry)~~
~~iv. 13 January 2021 (second entry);~~
~~v. 19 January 2021;~~

- d. Patient D:

- i. 6 January 2021; **Admitted and found proved**
ii. ~~12 January 2021; **To be determined**~~

Amended in accordance with Rule 17(6) of the Rules

- e. Patient E:

- i. 12 January 2021. **Admitted and found proved**

~~2. In respect of each of the occasions at paragraph 1 above, you had not held a consultation with the Patient.~~

2. In respect of the each of the occasions at paragraph 1 above you did not hold a consultation with the patient. **Admitted and found proved**
Amended in accordance with Rule 17(6) of the Rules

3. In relation to your conduct at paragraph 1, you:

- a. ~~knew that the entry on each occasion did not relate to a consultation that you had actually held;~~
a. Knew that the consultation would not take place; and **Not proved**

Amended in accordance with Rule 17(6) of the Rules

- b. ~~made each entry in order to mislead others into believing that a consultation had taken place.~~

- b. Booked the consultation in order to mislead others into believing that you would be consulting with the relevant patient. **Not proved**

Amended in accordance with Rule 17(6) of the Rules

4. Your conduct in paragraph 1 was dishonest by ~~reason~~ virtue of paragraph 3. **Not proved**

Amended in accordance with Rule 17(6) of the Rules

Patient B

5. On around 11 January 2021 you made an entry in Patient B's medical notes falsely stating: '*been seen, nil consultation*'. **Not proved**
6. You knew Patient B had not been seen in relation to the matters set out in paragraph 5. **Not proved**
7. Your conduct in paragraph 5 was dishonest by reason of paragraph 6. **Not proved**
8. On around 11 January 2021 you booked a follow up appointment onto System One for 15:30 on 12 January 2021 for Patient B which you:
- a. did not intend to carry out; **Not proved**
- b. did not carry out. **Not proved**
9. Your conduct in paragraph 8 was dishonest by reason of paragraph 8a. **Not proved**

Patient F

10. You:
- a. failed to record on System One a consultation which you held on 12 January 2021 with Patient F, with the intention that it would appear to others that no consultation had taken place on that date; **Not proved**
- b. booked, on 12 January 2021, an urgent appointment for 13 January 2021 for Patient F with the intention that others would believe you were carrying out an urgent appointment on 13 January 2021. **Not proved**
11. You knew:
- a. you should have recorded the consultation referred to at paragraph 10a; **Not proved**
- b. the urgent appointment referred to at paragraph 10b:

- i. was not required; **Not proved**
 - ii. would not be carried out; **Not proved**
 - iii. would make you unavailable for other appointments. **Not proved**
12. Your conduct in paragraph 10a was dishonest by reason of paragraph 11a. **Not proved**
13. Your conduct in paragraph 10b was dishonest by reason of paragraph 11b. **Not proved**

June 2021

- ~~14. You personally booked consultations on and for the following dates (the entries);~~
- ~~a. 8 June 2021 (for a consultation on 8 June 2021); Withdrawn in accordance with Rule 17(6)~~
 - ~~b. 8 June 2021 (for a consultation on 9 June 2021); Withdrawn in accordance with Rule 17(6)~~
- ~~15. In relation to each of the entries, you:~~
- ~~a. did not intend to carry out any consultation; Withdrawn in accordance with Rule 17(6)~~
 - ~~b. made the entries with the intention of making yourself appear unavailable for other patient consultations; Withdrawn in accordance with Rule 17(6)~~
 - ~~c. did not carry out a consultation; Withdrawn in accordance with Rule 17(6)~~
- ~~16. In relation to paragraph 14a and b you subsequently made a false entry in the medical records indicating that you had held the consultation when you knew that you had not. Withdrawn in accordance with Rule 17(6)~~
- ~~17. Your conduct in paragraph 14 was dishonest by reason of paragraph 15. Withdrawn in accordance with Rule 17(6)~~
- ~~18. Your conduct at paragraph 16 was dishonest. Withdrawn in accordance with Rule 17(6)~~

Determination on Impairment - 08/05/2024

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

The Evidence

205. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. The Tribunal received no further evidence at this stage.

Submissions

206. On behalf of the GMC, Mr Birrell did not submit that Dr Chawla's fitness to practise was impaired.

207. On behalf of Dr Chawla, Mr Smith submitted that the matters admitted and found proved do not amount to misconduct as there had not been a serious departure from the standards expected of a reasonable General Practitioner. He said that the conduct did not meet the sort of tests set out in the caselaw, it did not even meet that hurdle.

208. He said that even if misconduct was found it would not amount to current impairment. These events took place in late 2020 to early 2021 and there had been no repetition. He submitted that Dr Chawla is not currently impaired.

The Relevant Legal Principles

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

210. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to serious misconduct, and then whether that finding of misconduct could lead to a finding of impairment.

211. The Tribunal must determine whether Dr Chawla's fitness to practise is impaired today, taking into account Dr Chawla's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

Misconduct

212. In determining whether Dr Chawla's fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the facts found proved are a sufficiently serious departure from the standards of conduct reasonably expected so as to amount to misconduct.

213. Throughout its deliberations, the Tribunal took account of the statutory overarching objective of protecting the public, which includes protecting the health, safety, and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

214. The allegations which have been found proved amount to booking appointments for patients where consultations did not ultimately take place. The mischief here is that by booking his own appointments he was not following the Practice's policy, although the Tribunal noted that the policy did include a discretion to do so in some circumstances and Dr Chawla has indicated that he believed that other doctors did book appointments in the morning.

215. His actions had created a perception among his colleagues that he was not taking his fair share of the work.

216. The Tribunal have accepted Dr Chawla's explanation about why he booked the appointments and why they were not carried out. This was due to Dr Chawla struggling with the workload against a background of personal stress and the Covid-19 pandemic. The Tribunal have accepted that his motives were to ensure that the patient was reviewed at another time, when he had not been able to review them on the planned day.

217. Whilst this was an irritation to the other doctors, it was motivated by his desire to progress the patients' care. He was putting the patient's needs before the policy.

218. There is no evidence that there were any concerns relating to patient care and no suggestion he had made any false entries in patient notes.

219. The Tribunal have not been referred to any paragraphs in Good Medical Practice that Dr Chawla is alleged to have breached by his conduct. The Tribunal do not consider that other doctors would consider that Dr Chawla's actions amount to misconduct, particularly in view of his personal circumstances at the time and the motives for his actions.

220. The Tribunal has taken into account the dicta in *Cheatle v GMC*, which states that the misconduct must be serious rather than mere misconduct.

221. The Tribunal has concluded that the allegations found proved do not amount to misconduct.

222. Given that that facts found proved do not amount to misconduct, it follows that Dr Chawla is not impaired.

223. As the Tribunal determined that Dr Chawla's fitness to practise did not amount to misconduct and as such was not impaired, it determined that consideration of a warning was not necessary.

224. There is no interim order to revoke.

225. That concludes the case.