

**PUBLIC RECORD****Dates:** 31/10/2022 - 07/11/2022

**Medical Practitioner's name:** Dr Asaduzzaman SHARIF  
**GMC reference number:** 6037625  
**Primary medical qualification:** MB BS 1996 Dhaka University

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	No facts found proved	Not Impaired

**Summary of outcome**

No action (warning not considered)

**Tribunal:**

Legally Qualified Chair	Miss Samantha Gray
Lay Tribunal Member:	Ms Liz Daughters
Medical Tribunal Member:	Dr Shri Babarao
Tribunal Clerk:	Miss Emma Saunders

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Ranald Davidson, Counsel, instructed by Weightmans LLP
GMC Representative:	Mr Bob Sastry, 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 - 07/11/2022

### Background

1. Dr Sharif qualified in 1996 at Dhaka University in Bangladesh and relocated to the UK in 2001. He became a member of the Royal College of General Practitioners in March 2013. Dr Sharif worked as a locum General Practitioner (GP) at the Avenue Medical Centre in Slough from 2015 and as a salaried GP there from October 2016. Dr Sharif worked as a locum GP at the College Road Surgery in 2017 and then did some sessions at the Glenlyn Medical Centre ('the Practice') at the time in question. He started working as a salaried GP at the Practice on 5 February 2019 until 4 December 2019. Dr Sharif is currently working at the Avenue Medical Centre in Slough and the St David's Practice in Feltham.
2. The allegations that have led to Dr Sharif's hearing relate to concerns raised regarding his conduct towards Patient A at a consultation on or around 14 September 2018 at the Practice. It is alleged by the General Medical Council (GMC) that Dr Sharif touched Patient A inappropriately at that consultation, and that his actions towards Patient A were sexually motivated.
3. In respect of the referral to the GMC, Patient A contacted the Practice on 7 May 2021 to report the incident and spoke to Ms D, Operations Manager at the Practice. Following the contact in May 2021, Mr E, Managing Director of the Practice, called Patient A back - after listening to a recording of the call between Patient A and Ms D. After receiving Patient A's complaint and as Dr Sharif no longer worked at the Practice, the Practice confirmed that no internal investigation was undertaken and, it appears, a referral was then made to the GMC.

### The Outcome of Application Made during the Facts Stage

4. The Tribunal refused Dr Sharif's application, made pursuant to Rule 35(6) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), for Dr Sharif's wife to be present in the hearing room during the substantive evidence, before later giving testimonial evidence herself. The Tribunal's full decision on the application is included at Annex A.

### The Allegation and the Doctor's Response

5. The Allegation made against Dr Sharif is as follows:

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

1. On or around 14 September 2018 you consulted with Patient A and you:
  - a. on one or more occasion, moved your chair forwards so that your:
    - i. leg was between Patient A's legs;  
**To be determined**
    - ii. left knee touched Patient A's right knee;  
**To be determined**
  - b. rubbed Patient A's right hand, for around five to ten seconds;  
**To be determined**
  - c. stroked Patient A's:
    - i. upper arm;  
**To be determined**
    - ii. left knee, for around five to ten seconds;  
**To be determined**
  - d. slid your hand up towards Patient A's groin;  
**To be determined**
  - e. put your thumb and index finger over the top of Patient A's thigh, with your thumb on the inside of his thigh;  
**To be determined**
  - f. tapped Patient A's penis with your index finger on one or more occasion;  
**To be determined**
  - g. said 'don't worry you'll be okay,' or words to that effect, when you tapped Patient A's penis.  
**To be determined**
2. Your actions as described at paragraph 1 were:
  - a. carried out without Patient A's consent;  
**To be determined**

- b. sexually motivated.  
**To be determined**

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

**To be determined**

### Witness Evidence

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

In person on 31 October 2022:

- Patient A. His witness statement was dated 7 September 2021, and his supplemental statement was dated 31 October 2022.

By video link on 1 November 2022:

- Mr B, a friend of Patient A. His witness statement was dated 26 September 2021;
- Ms N, a friend and former girlfriend of Patient A. Her witness statement was dated 1 October 2021.

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

- Ms D, Operational Manager at the Practice. Her statement was dated 13 September 2021;
- Mr E, Managing Director of the Practice. His statement was dated 25 May 2022.

8. Dr Sharif provided his own witness statement dated 11 August 2022 and also gave oral evidence at the hearing. In addition, the Tribunal received testimonial evidence from the following witnesses on Dr Sharif's behalf:

In person on 2 November 2022:

- Dr M, GP and Dr Sharif's wife. Her statement was dated 7 August 2022.

By video link on 2 November 2022:

- Dr F, GP Partner at St David's Practice. His statement was dated 7 September 2022;
- Dr G, GP Partner at St David's Practice. His statement was dated 2022, and it was understood that he signed it around three months prior to this hearing;
- Dr H, previously GP Partner at the Avenue Medical Centre from 1990-2020, retired from the partnership in April 2020 and part time salaried GP until October

2022 when she fully retired. Her statement was dated 2022, and it was understood that she signed it around August 2022;

- Dr I, previously GP Partner at the Avenue Medical Centre from 1987-2020, retired from the partnership in April 2020 and subsequently held a number of GP or Covid Assessment Clinic posts during the Covid pandemic. His statement was dated 2022, and it was understood that he signed it around six weeks prior to this hearing.

9. The Tribunal also received testimonial evidence on behalf of Dr Sharif in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Dr J, sessional GP in Sussex. His statement was dated 11 August 2022;
- Dr K, GP Partner and Registered CQC lead for the Avenue Medical Centre. His statement was dated 3 October 2022;
- Mr L, Consultant Ophthalmologist (Surgeon) at the University Hospital of Wales in Cardiff. His statement was dated 4 October 2022.

### Documentary Evidence

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

- Clinic letter from the Cobham Day Surgery for Patient A dated 30 November 2018;
- Patient A's GP records for 14 September 2018 to 27 March 2019;
- Additional extracts from Patient A's medical records from 14 September 2017 to 14 September 2018;
- Audio recording and transcript of telephone call on 7 May 2021 from Patient A to the Practice.

### The Tribunal's Approach

11. 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 Sharif 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.

### Witness Evidence

12. In assessing a witness's credibility, the Legally Qualified Chair (LQC) reminded the Tribunal that it should not assess witness credibility exclusively on the demeanour of the

witness when giving their evidence, but their veracity should be tested by reference to objective facts proved independently in their evidence, in particular by reference to the documents in the case. The Tribunal should make a rounded assessment of a witness's reliability, rather than approaching their reliability in respect of each charge in isolation from the others: *R (on the application of Dutta) v GMC* [2020] EWHC 1974 (Admin).

13. It was open to the Tribunal not to rule out the whole of a witness's evidence based on credibility; credibility could be divisible: *Khan v The General Medical Council* [2021] EWHC 374 (Admin).

14. The LQC stated that, when considering the evidence of any witness in this case, the Tribunal should also bear in mind the extent to which the passage of time may have affected the memory of a witness. The Tribunal would be aware from its own experience that memories can fade with the passage of time, and that recollections may change, or may become confused, as to what did or did not happen at a particular time. The Tribunal should make due allowance for the way in which the passage of time may have affected the recollections of any of the witnesses.

15. In relation to witnesses generally, the LQC reminded the Tribunal that it should bear in mind that an honest witness could be mistaken, and a mistaken witness was not necessarily wrong about every fact.

16. As to individual pieces of evidence, the LQC stated that the Tribunal was entitled to draw proper inferences - to come to common sense conclusions based upon the evidence which it accepted as reliable; but it must not speculate. Similarly, the Tribunal should not speculate about what other evidence there might have been. The Tribunal should only draw an inference if it could safely exclude other possibilities: *Sony v GMC* (2015) EWAC 0364 Admin.

#### Good Character and Testimonial Evidence

17. The Tribunal should take into account, in making its determinations of fact, the good character of Dr Sharif.

18. The LQC reminded the Tribunal that, whilst good character was not a defence to the allegations, the evidence of good character counted in Dr Sharif's favour in two ways:

- First, Dr Sharif's good character supported his credibility and was therefore something the Tribunal should take into account when deciding whether it believed his evidence (the 'credibility limb'); and

- Secondly, Dr Sharif's good character might mean that he was less likely to have committed the allegations cited (the 'propensity limb').

It was for the Tribunal to decide what weight it would give to the evidence of good character, taking into account everything it had heard about the doctor.

19. The LQC noted that the Tribunal should always be mindful that, whilst evidence of good character was relevant to credibility and propensity, in relation to the Allegation the significance of such evidence ought not to be overstated and should not detract from the primary focus on the evidence directly relevant to the alleged wrongdoing: *Martin v Solicitors Regulation Authority* [2020] EWHC 3525 (Admin).

20. The Tribunal had been provided with a number of character references on behalf of Dr Sharif and had heard from a number of witnesses providing testimonial evidence as to character. The LQC reminded the Tribunal that it should consider these and attach such weight to them as it considered appropriate. It was not evidence that goes directly to the Allegation but was a matter to be put into the balance in the evaluation of all the evidence in the case.

#### Sexual Motivation

21. The LQC stated that, in *Basson v GMC* [2018] EWHC 505 (Admin), the High Court defined acting with sexual motivation as conduct done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

22. The LQC reminded the Tribunal that allegations of sexual motivation in the regulatory context were particularly serious. As such, the Tribunal would wish to seek cogent evidence before it concluded that a case of sexual motivation was made out. Sexual motivation requires a specific intent on the part of the doctor. It was not the same as carelessness, recklessness, or negligence.

23. It was important not to equate inappropriate conduct with sexually motivated conduct and the Tribunal should address the important question as to whether there could have been any other explanation for inappropriate conduct: *Arunkalaivanan v GMC* [2014] EWHC 873 (Admin). However, the key indispensable ingredient of motivation related to the individual's state of mind. The state of an individual's state of mind was not something that could be proved by direct observation. It could be proved only by inference or deduction from the surrounding evidence.

24. The Tribunal had not heard any direct evidence of motive in this case, other than Patient A's perception of events. However, it might be possible to prove sexual motivation by

way of inference. The Tribunal must be satisfied, on the balance of probabilities, that sexual motivation should be inferred from all the circumstances noting that the character evidence might be relevant to that exercise.

25. When considering sexual motivation, the Tribunal should make a deduction from all the facts and circumstances of the case and look at the material in the round. However, the best evidence of a sexual motivation could be the behaviour itself. If there was no plausible, alternative explanation as to why the doctor engaged in conduct or actions of an overtly sexual nature, then the Tribunal was entitled to conclude that the motivation was sexual.

### The Tribunal's Analysis of the Evidence and Findings

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

#### Analysis - Reporting of the concerns

27. The Tribunal had regard to all of the evidence before it. In particular, The Tribunal considered the reporting of the concerns by Patient A to the Practice in May 2021. It had regard to the transcript of telephone call from Patient A to the Practice on 7 May 2021. He spoke with Ms D:

*“far as I know, it was, like - because when I say as far as I know, it was two or three years ago, or maybe it was three or two, or..... It was basically about, I think about three months before I left Glenlyn.*

...

*Okay. Well, I went in - I can't remember his name now, obviously, but he was a doctor who was - an Indian doctor. I went in to have an examination - I don't know if it's connected - obviously, it must be - but it was like a rectal examination.*

...

*Ms [D]: Yes. Did you see the doctor more than once?*

*Patient A: I don't think I ever remember seeing him before or afterwards but obviously I left very near afterwards.”*

28. The Tribunal had regard to Ms D's witness statement dated 13 September 2021, in which she described the identification of the relevant medical record:

*“Patient A was no longer registered with Glenlyn, but I was still able to access the medical records we had for him from his time at Glenlyn. While I was on the phone with Patient A I looked through his medical records in order to determine which doctor he may have seen. I was looking for a record in which a rectal exam took place, and*



*the doctor was an Indian man. I was able to locate a medical record from 14 September 2018 which showed that Patient A had been seen by Dr Sharif, who fit Patient A's physical description of being an Indian man. The record also showed that a rectal exam had taken place and a chaperone had been refused which lined up with Patient A's recollection.*

...

*I continued looking for appointments on either side that might fit the description. Specifically I was looking to see if there was any other appointment, with any other doctor, in which the doctor who saw Patient A had been an Indian man and a rectal exam took place. I did note that there was another appointment on 22 August 2018 in which Patient A was seen by Dr Sharif for hip pain, but no rectal exam took place. There was no other appointment in Patient A's medical records that fit the description of the doctor and the type of medical appointment and I felt 100% certain that this would have been the appointment was referring to.*

*I looked through records as thoroughly as I could whilst on the phone to him until I was certain I found the consultation. I do not however recall how far back into medical records I looked."*

29. Further, the Tribunal had regard to the description given by Patient A in his GMC witness statement dated 7 September 2021:

*"As far as I remember this was the last appointment I had at Glenlyn. I don't remember the name of the GP I saw. The GP was Asian, possibly Indian, of average height and clean shaven with an educated voice. I don't remember seeing him before or after.*

...

*However, the GMC has advised me that the medical records show that the appointment took place on 14 September 2018 with Dr Sharif, this seems correct.*

...

*As far as I can remember, I haven't seen Dr Sharif before or after this one appointment."*

30. In respect of these statements, the Tribunal noted that there were a number of inconsistencies. It understood the reason for the delay in the reporting of the concerns and will have regard to Patient A's statement, in which he stated that he contacted the Practice to tell them about what had happened some weeks after it took place, that he had asked for a call back but did not hear anything. However, the impact of the delay was such that recollections may not be entirely accurate and there was some concern as to the level of detail that Patient A was able to recall. In particular, that Patient A was very clear about the

details of the incident, but had no recollection at all of attending any specific medical appointment within the date parameters given to personnel at the Practice.

31. In May 2021 Patient A stated that the events took place some two to three years ago, that the consultation was some three months before he left the Practice, was his last appointment with the Practice, and there was mention of a rectal examination. He did not know the name of the doctor when he called the Practice and spoke to Ms D. He described the doctor as an Indian doctor and used male pronouns when describing them. Patient A also said that he did not remember seeing the doctor in question before or after the appointment at issue. The Tribunal noted that Patient A provided more descriptive details in his witness statement, provided sometime after the reporting, and this included that the doctor “*was Asian, possibly Indian, of average height and clean shaven with an educated voice*”.

32. The Tribunal noted that the 14 September 2018 appointment with Dr Sharif was some five or six months before Patient A left the Practice in March 2019, it was not Patient A’s last appointment at the Practice, and Patient A had previously seen Dr Sharif at another GP appointment on 22 August 2018. Also in respect of September to December 2018, the Tribunal noted that Patient A had a series of different appointments in this time period. There were a number of appointments at the Practice, at the other site linked with the Practice and at other local surgeries and clinics as a result of referrals from the Practice. These included blood tests, asthma nurse reviews, x-rays in respect of his hip and a colonoscopy. However, when asked, Patient A did not recall a single one of these other appointments or indeed attending other sites of the Practice or referral appointments.

33. The Tribunal noted that the rectal examination on 14 September 2018 was not the only rectal exam he had around the time in question and that all of the exams, whilst not all done at the Practice, related to referrals made by the Practice. Patient A was clear that nothing untoward occurred during the rectal examination but during the debrief afterwards. Dr Sharif’s note of the consultation on 14 September 2018 also included reference to an abdominal exam, a prescription of ointment given and advice as to diet - Patient A does not remember these aspects of the consultation.

34. The Tribunal considered that Patient A’s memory in respect of the medical appointments he had in this period was vague and clouded, likely due to the passage of time and the number of various different appointments that he had attended. The Tribunal was conscious that the appointment in question appeared to have been identified by the Practice based on the wide parameters given to them by Patient A. The Tribunal has no evidence before it to suggest that any further checks or enquires were made by either the Practice or indeed Patient A in this respect. The Tribunal was of the view that there was a lack of cogent evidence before it to demonstrate that the correct appointment had been identified.

Analysis - The date of the incident/Earlier report of the concerns

35. The Tribunal noted that Patient A stated that he contacted the Practice to tell them about what had happened some weeks after it took place, that he had asked for a call back but did not hear anything.

36. The Tribunal had regard to Patient A's witness statement dated 7 September 2021:

*"I called Glenlyn to tell them about what had happened with Dr Sharif two or three weeks, maybe a month after it took place, I asked for a call back from one of the directors but didn't hear anything. I wanted the bosses to speak to me and then have a chat with Dr Sharif. I didn't want to make an official complaint, I wanted to make sure he was told he shouldn't do it again but I didn't want to make big fuss and ruin his career. I also tried to report what had happened in person but didn't feel able to with other people around."*

37. The Practice could not find a record of a telephone call from Patient A's landline or mobile number in or around September 2018. There was no evidence before the Tribunal of Patient A calling the Practice in or around September 2018.

38. Patient A had been able to obtain his phone records in respect of his mobile phone but was unable to obtain the landline records. In Patient A's supplemental statement dated 31 October 2022, he referred to a call he made to the Practice on 1 November 2018:

*"I believe that this is the call I made to Glenlyn when I asked for a call back from one of the bosses and never received a call back, as mentioned in paragraph 9 of my first statement. I believe this because I had no other reason to contact Glenlyn at this point, as I was no longer a patient there."*

39. In cross examination, Mr Davidson, Counsel for Dr Sharif, referred to Patient A's medical records in which it stated that there was a call for blood test results on 1 November 2018. Patient A stated:

*"that could have been the case... my recollection of it I don't know... everything 100% took place... I can only remember what I can remember"*

40. Patient A also gave oral evidence that he might have gone into the Practice but that his recollection about this was unclear. The Tribunal agreed that it was entirely feasible that he would not have wanted to say what happened to the GP receptionist. However, Patient A accepted that he could not remember much around this time, he was 100% sure that the

account happened but not of the date of it. The Tribunal did not consider that this point assisted in identifying the date of the consultation in question.

Analysis - Evidence of Mr B and Ms N

41. The Tribunal had regard to Ms N's witness statement dated 1 October 2021:

*"I make this statement as a very good friend of Patient A. Sometime in or around late 2018 I spoke with Patient A on the telephone and he told me about an experience he had during a GP consultation during which the doctor touched his thigh and his penis after an examination. I have since been told by the GMC that the doctor who saw Patient A that day was Dr Sharif.*

...

*Throughout our conversation, Patient A used male pronouns to describe the doctor so I knew the doctor he'd seen was a man. He did not describe the doctor in any other way to me. Because I was also a patient at Glenlyn at the time, I asked Patient A what the doctor's name was in case I knew him. At the time I didn't recognise the name and I didn't remember what the name of the doctor was. I do remember thinking that based on the name said that the doctor was likely Asian or Middle Eastern, but Patient A didn't specify this and I didn't ask him."*

42. The Tribunal was of the view that, if Patient A had mentioned the name of the doctor in the first conversation with Ms N, it was more likely than not that the same name would have been used in subsequent conversations between them and therefore made it more likely for Patient A to have recalled the name at the various stages of reporting the incident. The Tribunal also considered that if Patient A and Ms N had previously discussed the doctor's name between themselves it was more likely than not to have triggered a memory of the name when Dr Sharif's name was given by Glenlyn to Patient A. When Patient A came to report his complaint in May 2021 he did not know the name of the doctor and was vague in what he could remember about the doctor. Patient A had discussed the matter a number of times with Ms N over the years. As such, the Tribunal was of the view that Ms N was likely to have been mistaken that Patient A had told her the name of the doctor at the time, which was understandable given the passage of time. This was further consistent with the comment made by Ms N at paragraph 2 of her witness statement that it was the GMC that had given her the name of Dr Sharif.

43. The Tribunal had regard to Patient A's witness statement dated 7 September 2021:

*"I briefly told her what happened but as she didn't seem to take it particularly seriously we didn't carry on with the conversation."*

44. In cross examination, Ms N introduced further evidence than that set out in her witness statement. She stated, at this stage, that she had a brief conversation with Patient A on the telephone and then mentioned that a discussion at another time took place in a public house where Patient A demonstrated what had happened. She said that Patient A had spoken to her about the incident about three or so times over the years. The Tribunal noted that Patient A did mention, in his oral evidence but not his witness statement, meeting Mr B in a public house to further discuss the incident and demonstrate what had happened to him. However, Patient A was not able to give any detail as to where he met Ms N.

45. The Tribunal took account of Mr B's witness statement dated 26 September 2021:

*"At some point, at least over a year ago although I do not remember exactly when, Patient A called me on my mobile phone and told me about an encounter he'd had with a doctor.*

...

*From memory, Patient A told me the doctor was male, but he did not otherwise describe the doctor's age or race, nor did he say the doctor's name or the practice where the incident occurred.*

...

*It seemed to me that Patient A was nervous that he had been misinterpreting the situation or potentially questioning whether he had done something that caused the doctor to touch him inappropriately. I remember reassuring Patient A that what he described didn't seem right and I tried to make a light-hearted joke about it to make Patient A feel better."*

and he reiterated this in his oral evidence to the Tribunal. The Tribunal found Mr B to be a clear and credible witness who was able to provide a good picture of what Patient A had said to him at the time in question.

46. In Patient A's oral evidence, he stated that he did not give all of the details to Mr B in that first conversation about it but that they went to a local public house at some point during that week, at which time they discussed it again. Mr B was clear in his oral evidence that it was not discussed in the public house and the only conversation he had with Patient A regarding the incident took place over the telephone.

47. The Tribunal was conscious that the witnesses were all recalling conversations that took place a number of years ago. There was clearly confusion in a number of respects. The Tribunal was clear that Patient A had spoken with his two friends around the time of events and that Patient A had the impression that neither took it particularly seriously at that point. The Tribunal noted that Patient A's recollection of whom he spoke to and when was often

confused. Whilst Mr B was clear that he only spoke with Patient A once about the incident on the telephone, Patient A believed he had spoken to Mr B on more than one occasion, one of these times being in a public house. On the other hand, Ms N was clear that she had spoken to Patient A briefly on the telephone and then in more detail about the matter in a public house, whilst Patient A could not recall the meeting in the public house. The Tribunal noted that there were inconsistent accounts as to where and when Patient A spoke in detail to Ms N about the incident.

48. The Tribunal determined that it had no doubt that Patient A did discuss the incident with Mr B and Ms N but considered that the passage of time and inconsistencies in the various accounts gave rise to further concern as to the veracity of Patient A's recollection and his reliance upon the Practice's suggestion that the incident must have occurred during the appointment on 14 September 2018.

49. The Tribunal was also conscious that Patient A appeared to offer more detail of the incident and the doctor after he was provided the information regarding the appointment on 14 September 2018 by the Practice. It was further apparent to the Tribunal that the information developed throughout the passage of time from the date of reporting the incident in May 2021, to the giving of oral evidence to the Tribunal. In particular, the Tribunal considered it more likely than not that neither Patient A nor Ms N knew the name of the doctor and did not discuss this with Mr B or Ms N until such time the name was identified as a result of his call to the Practice in May 2021 and subsequent involvement in the GMC investigation process.

50. The Tribunal noted that there were a number of inconsistencies with the evidence and it did not provide any clearer picture as to the date of the consultation in question.

#### Analysis - Dr Sharif

51. The Tribunal further considered the veracity and credibility of Dr Sharif and his evidence by reference to his witness statement, oral evidence and testimonial evidence.

52. Within Dr Sharif's witness statement dated 11 August 2022, he stated that he was shocked and saddened by Patient A's complaint. He stated that he had enjoyed an unblemished career and had no fitness to practise history. Dr Sharif provided details of his personal circumstances, including that he was happily married. Dr Sharif stated that he first became aware of Patient A's complaint in GMC correspondence of 14 July 2021. He stated that he had absolutely no recollection of Patient A or his consultation with the patient on 14 September 2018. He noted that, at that time, he was typically seeing 36 patients in face to face consultations each day and, in the absence of any direct recollection, he was unable to add to the information in the consultation record. Dr Sharif stated that he wished to make it

clear that he had never intentionally touched a patient, other than for a legitimate clinical reason, and had never acted in a sexually motivated manner towards any patient during the course of his career.

53. The Tribunal had regard to the various written testimonials provided on Dr Sharif's behalf and the oral evidence it heard. The Tribunal noted that the testimonial evidence provided to them confirmed that the various doctors who had observed Dr Sharif found him to be a doctor who was methodical and professional; they had no concerns about his clinical practice. The Tribunal heard that Dr Sharif would offer reassurance to patients verbally and offer them a tissue or some water - and they had not observed him touching a patient in an attempt to either console them or offer reassurance. Further, he would explain any examinations before they took place and seek permission from the patient.

54. The Tribunal noted a number of factors about the consultation itself. Dr Sharif's record of the consultation, which was clear and extensive, also detailed rectal and abdominal examinations. Patient A did not recall the abdominal examination and said that there was nothing out of the ordinary in respect of the rectal examination. The notes also indicated that Dr Sharif offered Patient A a chaperone but this was refused by the patient. The Tribunal noted, from the evidence before it, that it was Dr Sharif's usual practice to offer a chaperone.

55. Dr Sharif did not recall the patient or the consultation and his evidence was based on his records within Patient A's medical records. During Dr Sharif's oral evidence he stated that Patient A had previously refused surgery in respect of his haemorrhoids. When questioned by Mr Sastry, Counsel for the GMC, Dr Sharif conceded that his notes stated that Patient A had been offered surgery but not that Patient A had refused it. Mr Sastry appeared to suggest that this demonstrated that Dr Sharif remembered more about the 14 September 2018 consultation than he was suggesting. The Tribunal was not convinced this was the case. The Tribunal considered that it would be entirely reasonable and logical to make an assumption that Patient A had refused surgery as it was set out in Dr Sharif's note of the consultation that surgery had been recommended in the past but had not taken place.

56. The Tribunal also noted that there was no evidence of any other complaints about Dr Sharif and there were a number of positive testimonials about his clinical practice, including that patients often requested to see Dr Sharif.

#### Analysis - Identification of Dr Sharif

57. The Tribunal noted that Patient A did not know the name of the doctor when he made the complaint to the Practice. He gave the vague parameters that he had to the Practice, which prompted them to go and search their records to identify when the relevant consultation took place. Patient A was not able to be clear about the timing of the

appointment and there were quite a number of appointments at the Practice and referrals by the Practice to associated specialists, and to the other site of the Practice/local surgeries. These included x-rays, blood tests, and referrals relating to the same symptoms - Patient A could not recall two other consultations that he had had about the haemorrhoids around this time. Further, Patient A said that he did not think he had seen the doctor in question before or after the appointment in question. As a result of this, the Practice identified one appointment that best fit the information provided by Patient A and this has been relied upon by Patient A to be the relevant appointment. This was in spite of the fact that not all of the information provided by Patient A to the Practice completely corresponded, for example Dr Sharif had seen Patient A on more than one occasion. The Tribunal noted the absence of any evidence where Patient A had positively identified Dr Sharif as being the doctor who had touched him as described in the Allegation.

58. The Tribunal was concerned as to how it could be satisfied on the balance of probabilities that the events Patient A experienced occurred at this particular consultation on 14 September 2018 when Patient A had no specific recollection of the date of the appointment. The Tribunal noted that Patient A accepted that he could not remember attending any other appointments in the relevant time period, in spite of the fact that the documentary evidence confirmed a number of other medical appointments during this time. The Tribunal considered that it was more likely than not that appointments attended by Patient A at around this time could be confused with each other. There was no evidence before the Tribunal to allow it to determine either way. Patient A, at no point, positively identified Dr Sharif. He has, understandably, relied on the Practice telling him who it must have been and the Practice identified the consultation based on unclear parameters. As Dr Sharif was no longer employed at the Practice, it did not complete its own investigation and it appeared to the Tribunal that the identification of the date of the appointment and the identity of the doctor was not questioned further.

### Conclusions

59. The Tribunal was of the view that Patient A had experienced an unwanted incident involving a doctor touching his hand, arm, leg and penis and did not dispute that he had that experience. The Tribunal was conscious that Patient A was traumatised by what had happened and it had been playing on his mind for a long time. The Tribunal was clear that there was no motivation to fabricate the account and no evidence or impression that he held animosity against anyone or the Practice. Patient A told two friends what he had experienced shortly after it occurred and this supported his recollection. Overall, the Tribunal was conscious of the legal directions in that memories can fade with the passage of time, and that recollections may change, or may become confused, as to what did or did not happen at a particular time. The Tribunal were cognisant of how memory works and that Patient A had been asked to go over the matter a number of times at various different points, which may



have contributed to the inconsistencies. The Tribunal reiterated that it did not dispute that Patient A experienced an interaction with a doctor where something untoward happened.

60. The Tribunal determined that, for the reasons set out above, Patient A's recollection of events was vague from the outset and there was some confusion around surrounding events given the passage of time. There were also some inconsistencies in the recollection of what had been said at the time between Patient A, Mr B and Ms N. The Tribunal considered that it was possible that Patient A could have been mistaken in his recollection as to the consultation date and doctor involved, and relied on the information suggested by the Practice as to during which appointment the incident must have occurred.

61. On the basis of the evidence before it, the Tribunal could not be sure that the incident described by Patient A took place on 14 September 2018. There had been no positive identification of Dr Sharif and Patient A did not have memory of a number of events surrounding the incident. Overall, the Tribunal was not satisfied, on the balance of probabilities, that there was sufficient evidence to demonstrate that the incident as described by Patient A took place on 14 September 2018 or that it was Dr Sharif.

Paragraph 1 (a) to (g)

62. Given the Tribunal's overarching findings above, it determined that, on the balance of probabilities, all aspects of paragraph 1 of the Allegation were not proved in their entirety.

Paragraph 2 (a) to (b)

63. The Tribunal has found paragraph 1 (a) to (g) of the Allegation not proved. As a result, the Tribunal found paragraph 2 of the Allegation not proved in its entirety.

### The Tribunal's Overall Determination on the Facts

64. The Tribunal has determined the facts as follows:

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

1. On or around 14 September 2018 you consulted with Patient A and you:
  - a. on one or more occasion, moved your chair forwards so that your:
    - i. leg was between Patient A's legs;  
**Not proved**
    - ii. left knee touched Patient A's right knee;

**Not proved**

b. rubbed Patient A's right hand, for around five to ten seconds;  
**Not proved**

c. stroked Patient A's:

i. upper arm;  
**Not proved**

ii. left knee, for around five to ten seconds;  
**Not proved**

d. slid your hand up towards Patient A's groin;  
**Not proved**

e. put your thumb and index finger over the top of Patient A's thigh, with your thumb on the inside of his thigh;  
**Not proved**

f. tapped Patient A's penis with your index finger on one or more occasion;  
**Not proved**

g. said 'don't worry you'll be okay,' or words to that effect, when you tapped Patient A's penis.  
**Not proved**

2. Your actions as described at paragraph 1 were:

a. carried out without Patient A's consent;  
**Not proved**

b. sexually motivated.  
**Not proved**

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

**Not impaired**

65. As the Facts have not been found proved it therefore follows that Dr Sharif's fitness to practise is not impaired.

ANNEX A - 07/11/2022

### Application for Dr M to attend the hearing before giving evidence

66. On 31 October 2022 Mr Davidson, Counsel on Dr Sharif's behalf, asked the Tribunal to allow Dr M, Dr Sharif's wife, to be present from the start of the hearing to give support. Dr M was scheduled to give testimonial evidence to the Tribunal later in the hearing.

### Submissions

67. Mr Davidson submitted that Dr M was to give evidence in respect of character only and that there was no obvious reason why her presence in the hearing room for the substantive evidence would prevent her from giving testimonial evidence.

68. Mr Sastry, Counsel on behalf of the GMC, stated that the general rule was that witnesses should not be present in the hearing until they have given their evidence. He submitted that the application was opposed by the GMC. Mr Sastry acknowledged that the witness in question did not relate to issues of fact, but stated that this might change if the witness was in the room and heard other witnesses give evidence. Mr Sastry stated that the witness did not have knowledge of any other evidence or statements to be given. He stated that the rule was in place to ensure there were no potential complications in a witness, even a testimonial witness, hearing evidence and then commenting upon it.

### Tribunal's Decision

69. The Legally Qualified Chair (LQC) referred the Tribunal to the overarching principles and to Rule 35(6) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), which reads as follows:

*"A witness of fact shall not, without leave of the Committee or Tribunal, be entitled to give evidence at a hearing unless he has been excluded from the proceedings until such time as he is called."*

70. The Tribunal noted that the Allegation related to inappropriate touching of a patient and sexual motivation. The Tribunal was aware that Dr M was to be a testimonial witness rather than of fact, had provided a written testimonial statement and was due to give oral evidence to the Tribunal in due course.

71. The Tribunal understood the request that Dr Sharif wished his wife to be present in the hearing room for support. Whilst the Tribunal was sympathetic to Dr Sharif's request for moral support in the hearing room, it determined to refuse the application. The Tribunal was keen to avoid prejudice to either party in Dr M's attendance at the hearing before she was due to give her evidence. It was of the view that there was a possibility that, if Dr M were permitted to hear GMC witness evidence, issues of fact that she might want to respond to could arise that were unexpected. The Tribunal determined that such a risk should be avoided and that the appropriate and fair decision, for all parties, would be to refuse the request.