

PUBLIC RECORD

Dates: 24/02/2025 - 07/03/2025

Doctor: Dr Astrit RRUKAJ

GMC reference number: 6087233

Primary medical qualification: Mjek i Perg 1998 University of Tirana

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Angela Georgiou
Lay Tribunal Member:	Mr Philip Brown
Registrant Tribunal Member:	Dr David Mabin
Tribunal Clerk:	Mr Matt O'Reilly

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Kevin McNerney, Counsel, instructed by Fiona Bruce Solicitors
GMC Representative:	Ms Jade Bucklow, 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 - 05/03/2025

1. This determination will be read in private. However, as this case concerns Dr Rrukaj's alleged misconduct, a redacted version will be published at the close of the hearing.

Background

2. Dr Rrukaj gained his primary medical qualification from the University of Tirana, Albania, on 31 July 1998. He came to the UK in September 1998 and gained full GMC registration on 19 October 2007. At the time of the events, August 2021, Dr Rrukaj was working as a Trust Grade Doctor on the inpatient old age unit, primarily on the Baswich Ward of St George's Hospital, Stafford. He had commenced that role on 26 July 2021. Ms A was working as XXX at St George's Hospital in Stafford. Dr Rrukaj is currently a specialist in General Adult Psychiatry and works for Cornwall Partnership NHS Foundation Trust.

3. On 11 August 2021, Ms A and Dr Rrukaj happened to be XXX at the same location and a conversation between them occurred. During that encounter Ms A told Dr Rrukaj that she was going to be XXX. Dr Rrukaj asked Ms A where she worked and when she told him, they realised that they worked at the same hospital and Ms A recognised Dr Rrukaj as a doctor on the Baswich Ward. During the course of the conversation, Dr Rrukaj asked if Ms A would XXX. Ms A then gave Dr Rrukaj her mobile telephone number. Over the next two days, Ms A and Dr Rrukaj exchanged messages regarding XXX. They arranged to meet after Dr Rrukaj finished work on the evening of Friday 13 August 2021 at around 6pm. Dr Rrukaj picked Ms A up at an agreed location and drove her to an address XXX. Ms A had understood this to be the doctor's home, but it turned out that he was temporarily house-sitting XXX. The only persons present in the house at the time of this incident were Dr Rrukaj and Ms A.

4. It is alleged that Dr Rrukaj behaved in an inappropriate manner towards Ms A, at his home, and later in the evening when Dr Rrukaj took Ms A home, on 13 August 2021. It is further alleged that his actions were carried out without Ms A's consent and were sexually motivated.

The Allegation and the Doctor's Response

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

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

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - a. kissed her on the face on one or more occasion;
To be determined
 - b. put your tongue in Ms A's:
 - i. ear on one or more occasion; **To be determined**
 - ii. mouth on one or more occasion; **To be determined**
 - c. put your arms around the top of Ms A's arms and waist on one or more occasion; **To be determined**
 - d. rubbed your groin against Ms A's bottom when she bent over to tie the laces on her shoes; **To be determined**
 - e. put your hand on Ms A's breast over the top of her jumper;
 - f. put your hand underneath Ms A's jumper and grabbed her breast over her bra and squeezed it; **To be determined**
 - g. put your hand over the front of Ms A's trousers and touched her in the area of her groin. **To be determined**
2. Your actions as set out at paragraph 1 were:
 - a. carried out without Ms 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**

The Admitted Facts

6. At the outset of these proceedings, through his counsel, Mr Kevin McNerney, Dr Rrukaj made no admissions. In light of Dr Rrukaj's response to the Allegation made against him, the Tribunal was required to determine the entirety of the paragraphs and sub-paragraphs of the Allegation.

Witness Evidence

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

- Ms A, XXX at St George's Hospital, Stafford (at the time of the index incident). Ms A provided a witness statement dated 20 October 2023, and a supplementary witness statement, with exhibits, dated 24 February 2024. She also gave oral evidence in person during the proceedings.
- Mr B, XXX at St George's Hospital, Stafford (at the time of the index incident). Mr B provided a witness statement dated 8 February 2023. He also gave oral evidence in person during the proceedings.

8. Dr Rrukaj provided his own witness statement dated 17 January 2025, and gave oral evidence at the hearing. The Tribunal also received evidence from Ms C, retired Consultant Paediatrician. She provided a witness statement dated 17 January 2025. Ms C also provided oral evidence via MS Teams.

9. The Tribunal also received witness statements from witnesses who were not called to give evidence on behalf of Dr Rrukaj:

- Mr D, Consultant Obstetrician and Gynaecologist, dated 14 January 2025. Mr D was not called to give evidence;
- Dr E, General Practitioner, dated 17 January 2025. Dr E was not called to give evidence;
- Dr F, Consultant Psychiatrist, dated 17 January 2025. Dr F was not called to give evidence.

Documentary Evidence

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

On behalf of the GMC

- Transcript of Police Interview of Ms A / Handwritten record of Police interview of Ms A, dated 19 August 2021;
- WhatsApp messages between Ms A and Dr Rrukaj, dated 11-13 August 2021;
- Photographs of Ms A's face, dated 11 and 14 August 2021;
- Police Witness Statement of Mr B, dated 23 August 2021;
- Text and Instagram messages between Mr B and Ms A 13 – 14 August 2021;
- Ms A Hospital records, dated 14 August 2021;
- Ms A GP records, various;
- Police Forensic records, dated 29 June 2022;
- Dr Rrukaj Police Summary Record of Interview, undated;
- Disclosure from Staffordshire Police to the GMC that no further action was taken following its investigation of Ms A's complaint, dated 20 September 2022.

On behalf of Dr Rrukaj

- A sketch of the floor plan of the property made by Dr Rrukaj of where the index incident took place, Google maps screenshot and a photograph of the front of property;
- Dr Rrukaj's CV;
- Multi source feedback reports, dated 24 May 2023 to 2 August 2023 and 28 February 2024 to 29 May 2024;
- Testimonial evidence;
- XXX

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 Rrukaj 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.

12. Where there are serious allegations or where there are serious consequences which would flow from a factual finding, the Tribunal is required to undertake a heightened examination of the evidence; *Casey v GMC* [2011] NIQB 95.

13. The Tribunal further accepted the relevance of the authority of *Lawrence v GMC* [2015] EWHC 586 (*Admin*) to this case, which stated that in serious offences, there is a need for cogent evidence. Whilst this does not alter the standard of proof required, a close and

detailed analysis, as well as an examination of the inherent improbability of events is required in assessing the evidence.

14. On sexual motivation, the Tribunal was reminded of the cases of *Basson v General Medical Council* [2018] EWHC 505 (Admin) and *Haris v General Medical Council* [2021] EWCA Civ 763. The Tribunal was advised that inappropriate conduct should not be equated with sexually motivated conduct: *Arunkalaivanan v General Medical Council* [2014] EWHC 873 (Admin) and consideration should be given as to whether there was any other explanation for inappropriate conduct. The Tribunal was further invited to have regard to the definition of ‘sexual’ in section 78 of the Sexual Offences Act 2003.

15. The Tribunal considered Dr Rrukaj’s positive good character evidence as important and relevant to its considerations in two respects. Although it is not a defence to the allegations, Dr Rrukaj’s good character counts in his favour when assessing the credibility of his evidence and whether it should be accepted. Secondly, his good character is relevant in his favour, as it may mean it is less likely that he has acted in the way alleged. The Tribunal was advised that the weight to be given to good character is a matter for the Tribunal, and it should not detract from ‘the primary focus’ on the evidence before it: *Sawati v General Medical Council* [2022] EWHC 283 (Admin), *Donkin v The Law Society* [2007] EWHC 414 (Admin) and *Wisson v Health Professions Council* [2013] EWHC 1036 (Admin).

The Tribunal’s Analysis of the Evidence and Findings

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

17. As part of its analysis of the evidence, the Tribunal first reminded itself of the case of both Ms A and Dr Rrukaj.

Ms A’s account

18. In broad terms, it was Ms A’s case that prior to the incident on 13 August 2021, she had seen Dr Rrukaj around the ward and was aware that he was a doctor. She recalled one occasion when she was asked to XXX, but otherwise did not have any contact with Dr Rrukaj. Although she had agreed to go to Dr Rrukaj’s house to teach him how to XXX, she was nervous about doing so, questioned her decision and discussed her concerns with relatives, friends and colleagues, including Instagram and Whatsapp messages with Mr B.

19. According to Ms A, upon their arrival at Dr Rrukaj's house, Ms A began XXX. Dr Rrukaj started drinking alcohol, and over the next few hours he drank a number of different spirits, eventually becoming intoxicated. He also repeatedly offered alcoholic and non-alcoholic drinks to Ms A and insisted that Ms A take the drinks that he offered to her, telling her to drink the tea and the water that he gave to her. He also tried to feed her mango, despite the fact that she told him that she did not like mango and that she did not want any. Ms A said that she had one shot of vodka, essentially to appease Dr Rrukaj. Despite only having one shot of vodka, later that evening Ms A began to feel as if she were drunk, and she thought that her drink had been spiked.

20. As the evening progressed, Ms A became gradually more uncomfortable as on her account Dr Rrukaj became less interested in XXX. By 21.41 she had sent a message to Mr B saying "*this is the weirdest night of my life*" with an exploding head emoji. She says that he had begun to play music on his laptop, made comments about the sexual nature of the music and started dancing, trying to get Ms A to dance by taking hold of her with his arms around her back. Ms A felt uncomfortable at this and wriggled out of his hold. At one point during the evening Dr Rrukaj had attempted to feed her mango, despite Ms A saying she did not like mango. Ms A said Dr Rrukaj took her upstairs and indicated to her where his bedroom was and he suggested that she might spend the night with him there, which she refused. During the course of the evening Dr Rrukaj kissed her face and put his tongue on her face and in her ear. Ms A found this conduct unwelcome, and she pulled away and told him to stop.

21. Later in the evening, once the XXX was completed, Dr Rrukaj prepared a salad for dinner. Ms A had told Dr Rrukaj by this stage that she wanted to go home, and Dr Rrukaj suggested that he would take Ms A home after they had eaten the salad. During the meal, Dr Rrukaj continued to insist that she have an alcoholic drink. Ms A relented and had a single shot of vodka. She also had a glass of water that he gave her, which Ms A recalls tasted funny. Shortly afterwards she says that she felt sick and dizzy. He again took hold of her, kissing her face, putting his tongue in her ear and her mouth. He grabbed and squeezed her left breast over her clothing. She resisted by pushing him away and telling him "*Please stop*", but he did not and he lifted her off the ground in an embrace so that she could not move away.

22. Ms A managed to free herself from Dr Rrukaj and told him she would walk home. He said he would take her home but she said she would call a taxi. Dr Rrukaj told Ms A not to bring a taxi to the house and insisted that he would drive her home. Ms A was reluctant given how much Dr Rrukaj had had to drink, but he would not take no for an answer.

23. As Ms A bent down to put her shoes on by the front door, preparing to leave, Ms A says that Dr Rrukaj came up behind her and started rubbing his groin against her backside.

During this incident, Ms A felt that Dr Rrukaj's penis was erect. She stood up quickly and they went outside to his car.

24. Dr Rrukaj drove Ms A back to XXX from where he had picked her up earlier. She said she would walk home from there but he insisted on walking with her and he took her canvas bag which contained all of her XXX equipment. At 22.16, Ms A messaged her friend, Mr B, saying "*call me and help*" and two minutes later "*Quick please*". Mr B rang her and she asked him to come and meet her. Ms A did not want Dr Rrukaj following her into her home, so she walked in a direction away from her house. At the same time, Ms A sent further messages to Mr B so that he could identify where she was. As they walked, Ms A stumbled near some bushes and Dr Rrukaj grabbed Ms A again. He put his arms around her and kissed her, putting his tongue in her mouth and her ear. He also touched and stroked her groin area over her trousers. She pushed his hand away but he put his hand up her top, squeezing her left breast over her bra. Ms A managed to get away from him and said that she wanted to go for a walk.

25. Mr B arrived shortly thereafter, having been driven to where Ms A was by XXX. Dr Rrukaj handed Ms A's bag to Mr B and then he left. Ms A got into Mr B's car and immediately broke down. She was crying hysterically and told Mr B that she had been sexually assaulted and that she thought that her drink had been spiked. Mr B took Ms A back to his house, and whilst there she vomited several times. She said that she felt very different to how she felt when she had previously been drunk, and that her face and tongue felt numb. It was Ms A's account that she had not drunk enough alcohol to be intoxicated. A picture was taken of Ms A shortly after midnight on 14 August 2021 in which her face looked puffy, reddened and swollen.

26. Ms A was taken to the accident and emergency department at Stoke Hospital by Mr B. She told medical staff what had happened to her and that she thought that her drink had been spiked, and accordingly the police were called. Toxicological analysis of Ms A's blood demonstrated that no alcohol was detected in her blood, however there was an interval of 7 hours and 12 minutes between the index incident and the sample having been taken for testing. It was therefore not possible to confirm whether or not Ms A was intoxicated at the time of the events from the toxicology report. Further, no other substances were detected which could have been used to spike something which Ms A had consumed. The Tribunal note that it is not part of the GMC's case that Ms A's drink had been spiked.

Dr Rrukaj's account

27. Dr Rrukaj denied that the account provided by Ms A was accurate. In broad terms it was Dr Rrukaj's case, as he stated to the police, that Ms A had approached him whilst XXX and she had offered to teach him how to XXX. When they arrived at his house, Ms A told him that she liked vodka. Dr Rrukaj says that Ms A had 3 shots during the evening. He said that he only had one shot of vodka throughout the evening. He said that whilst they were XXX, they were listening to music. Ms A had been selecting the music on his laptop and he commented that some of the music was sexual and asked her if the next song would be "*sex on the beach*". He said that Ms A was dancing in her chair and so he asked her for a dance and a cuddle, to which she agreed. As they danced he said her hands were round his neck and his hands were around her back. He lifted her off the ground as they danced. He accepted that he kissed her cheek but could not say how many times he did so. He also said that the side of his mouth may have touched Ms A's cheek when they were dancing. He denied kissing her anywhere else or putting his tongue in her ear or licking her. Dr Rrukaj denied touching Ms A's breasts or that he had pressed his groin into her backside as she put her shoes on. He said however that he may have brushed past her as he went out of the front door but at no point during the evening was he sexually aroused.

28. Dr Rrukaj said that during her visit, Ms A had gone to have a look upstairs and he showed her his bedroom. They had agreed that they would spend the night under the same roof, either at his house or at her house. He said that the reason he took Ms A home was so that she could XXX so that they could then either return to his home or go to her home and spend the night under the same roof.

29. When Dr Rrukaj drove Ms A home, he recalls that she would not tell him where she lived. He parked his car near XXX, where he had collected her earlier in the day, and walked along the street. Dr Rrukaj said that after a little time he realised that Ms A was walking away from the direction of her house. As they walked, Dr Rrukaj asked Ms A if she wanted to walk as a couple, and she agreed. He said that they were walking arm in arm as a 'pretend couple'. At one stage, as they were walking Ms A was on the phone to someone. Dr Rrukaj heard a male voice say to her 'do it now' and he then saw her take something from her pocket or her bag and put it in her mouth. At this, Dr Rrukaj became suspicious. In his oral evidence he said that he later recognised this voice to have been Mr B's. He said that he thought Ms A was being given instructions and he became suspicious and that he was being 'groomed'. Dr Rrukaj described how they hugged and said goodbye as the car in which Mr B was in, pulled up. At this time, Ms A's hand brushed his groin but he thought nothing of it at the time.

30. Dr Rrukaj said that everything that had happened between them was consensual, that there was no indication to him that Ms A had any concerns about meeting him to show him

how to XXX or coming to his home. His account was that the events of the evening, the music and dancing were all led by her and that he could not understand why Ms A had made these allegations against him but that they did not happen.

31. The Tribunal was mindful that only Ms A and Dr Rrukaj were present when the events are said to have occurred, and so considered each account in detail. In doing so, the Tribunal had difficulty understanding what Dr Rrukaj's case exactly was. It noted that he had given different explanations for the events at different times, and that not all of those explanations were advanced prior to the Tribunal convening and/or put to GMC witnesses. The Tribunal therefore attempted to draw out the various accounts alluded to over time by Dr Rrukaj.

32. The Tribunal began by considering what, if any, agreement there was between the parties as to what had happened on 13 August 2021, and noted some measure of agreement. The Tribunal noted that Ms A and Dr Rrukaj had met on 11 August 2021 whilst out XXX, and that they had struck up a conversation. It was agreed that the conversation involved a discussion about XXX, and that Dr Rrukaj had asked, and Ms A had agreed, to show Dr Rrukaj how to XXX. It was agreed that the two had exchanged messages over the following days, and that Ms A had agreed to go to Dr Rrukaj's house on the evening of 13 August 2021 to show him how to XXX. It was agreed that once at the house, XXX. It is agreed that there was some drinking of alcohol, albeit a dispute as to who drank what and how much. It was agreed that music was being played from Dr Rrukaj's laptop, and that some of the music was sexually suggestive, causing Dr Rrukaj to make a comment about it. It is agreed that there was at least an attempt by Dr Rrukaj to get Ms A to dance, and that there was some kissing albeit on Ms A's account this was not consensual, and on Dr Rrukaj account it was a 'European' kiss. It is agreed that Dr Rrukaj had attempted to feed Ms A some mango from a fork that he was using. It is agreed that shortly after 22.00 Ms A and Dr Rrukaj left his home to travel to Ms A's home. On Ms A's account this was because she wanted to leave Dr Rrukaj's company but in order to not offend him, suggested that she needed to get home to XXX. On Dr Rrukaj's account this was XXX so that they could then spend the night under the same roof, either at his house or at hers.

33. It is agreed that Dr Rrukaj drove Ms A back to XXX, from where he had collected her earlier that day. He was aware of the location of Ms A's house and had previously driven past her house but was unable to stop outside XXX and so had actually met her at XXX which was a short distance from her home. It is agreed that Ms A did not direct Dr Rrukaj back to her home, and that they walked in a direction which was away from her house. It is agreed that Ms A was on the phone to someone else as they walked along. At some point Ms A said she stumbled near some bushes and Dr Rrukaj caught her. For the first time, during his oral evidence, Dr Rrukaj agreed that Ms A stumbled, and he caught her. It is agreed that Mr B

arrived in his XXX car whilst Dr Rrukaj and Ms A were walking along, and that she got into that car and drove away.

34. It is apparent therefore that as to the events of 13 August 2021, the accounts of Ms A and of Dr Rrukaj have a number of similarities.

35. The Tribunal then considered whether there was any extraneous evidence to support either account. The Tribunal considered there to be two *anchor points* in this case, supported by objective evidence.

36. The first was prior to Ms A having met up with Dr Rrukaj, when she was nervous, anxious and unsure about going to meet up with him. This was supported by her text messages to Mr B, and her account to the police that she had told Mr B, XXX and a female colleague at work about her concerns. The Tribunal considered that this was evidence that Ms A was apprehensive about going to meet Dr Rrukaj XXX, that her gut instinct was telling her not to go, but that she questioned her feeling and felt that she was being silly and was probably overreacting.

37. The Tribunal noted Ms A's evidence to the effect that whilst she had agreed to go to Dr Rrukaj's house to show him how to XXX, she was conflicted about that decision. Whilst she was nervous about the appropriateness of attending the home of a senior colleague, XXX, she did not want to appear to be over-reacting and was concerned that she may make it awkward to work together if she was ascribing to Dr Rrukaj intentions that he did not have. In other words, she did not want to offend Dr Rrukaj by cancelling the plans to XXX. Ms A told the police that she discussed her concerns with at least 4 other people, including Mr B.

38. Ms A was asked by the police about the fact she said she had raised concerns with a number of people. She said *"...just my friends, I was just, like "Am I being stupid, like, going to teach someone to [XXX], even though it's a man?" And, like, ["XXX"]; just kind of said that I was overreacting, like he just wanted to [XXX]"* She said that she told Mr B about her concerns, a female colleague from work, [XXX]. Ms A said that she wanted to be careful and was telling people that she was going because as much as she wanted to help people, she was aware it did not always work out.

39. Ms A's conflicted state of mind is evident by the messages that were exchanged with Mr B. On 13 August 2021, Mr B sent Ms A an Instagram message inviting her to go out to celebrate XXX. Part of that message reads *"Anyway, I hope you've had a really good day today and that [XXX] goes well tonight. I'll message you when I've finished later, so we can arrange to what time you'd like to meet up for celebratory cocktails. Do you fancy going to [XXX]? Xx"*

40. Ms A responded as follows *“I don’t know if I’ll be able to come out later, I haven’t eaten yet because I feel sick I’m so stressed. I’m probably overreacting and I’m telling myself not to worry but that is having 0 effect. As expected.”* Ms A suggested that she and Mr B meet the following day to celebrate XXX. She later messaged *“I’m sure I’ll feel better once there, my gut is just telling me I’m putting myself in an unsafe situation...”* Mr B responded *“Maybe you should just go home [Ms A], if your gut is telling you that?...”* Ms A then responded *“I’m sure I’m overreacting. It will be so awkward at work if I’m just being silly...”*

41. The Tribunal noted that it did not have any evidence from XXX, or her work colleagues but accepted that Ms A was concerned about her decision to go to Dr Rrukaj’s house. There was corroborating evidence from Mr B about her concerns, supported by the text messages the two had exchanged. The Tribunal considered that Ms A was sufficiently concerned about going to Dr Rrukaj’s house that she was discussing it with a number of people. Further, the arrangement to go and show Dr Rrukaj how to XXX was causing her anxiety such that she was not able to eat.

42. The second *anchor point* was Ms A's actual presentation when she got in the car with Mr B after he picked her up at around 22.28pm. According to both Ms A and Mr B, Ms A broke down when she got in the car and was very distressed. Ms A said that she told Mr B that she thought that Dr Rrukaj was going to rape her and she thought he had given her something because she felt really ill. Mr B said that Ms A told him she had been sexually assaulted and that she appeared to be intoxicated.

43. Noting that the Tribunal at times struggled to understand Dr Rrukaj’s case, the Tribunal identified the following themes put forward by, or on behalf of, Dr Rrukaj and considered each theme by reference to the other evidence before it, in order to come to a determination on the facts.

Ms A having been intoxicated

44. It was put forward by Dr Rrukaj that Ms A was intoxicated and that either she did not accurately recall what had taken place, or that she had made it up entirely, due to her intoxication.

45. In her police interview, Ms A stated that when she and Dr Rrukaj got to his house he started drinking immediately.

[Ms A] So he got in the house. I started unpacking my bag [XXX]...He started drinking immediately.

[Police] You say he was drinking. What was he drinking?

[Ms A] He had cognac, gin and port. He asked me if I wanted a tea, I said I'd got my own drink, because I took a Ribena there.

[Police] Okay. So when you got into the house, you said you started unpacking your stuff. What room in the house were you unpacking your stuff in?

[Ms A] The kitchen.

[Police] The kitchen, okay. You said there 2 was drink, and he's had the drinks. What order did he have the drinks in?

[Ms A] Well, he just – he got them out and he poured like a shot of gin...He gave me gin to drink but I said, "I don't really drink and I don't drink gin". I said I'd got Ribena with me. He was showing me, like, different teas and he says, like, "There's lots of teas here", like, "We've got lots to drink". I agreed to have a tea. There was still a gin, and I said I didn't want a gin. He was drinking like alcohol so I don't know which one he poured for himself; it looked ---

[Police] ...What were the different alcohols you noticed?

[Ms A] Cognac, port and gin. He said that it was – I don't know. It was like some – I think he said it was Italian. I don't really remember. He said it was really fruity and he kept trying to encourage me to drink it, but I said no.

[Police] How did he do that? Tell me how he tried to encourage you to drink it.

[Ms A] He kept saying, "You haven't had your gin". He said, "Try this, it's really nice." "This is good". He said, "We can drink what we like. This isn't my house but we can drink what we like and help yourself." Just felt very weird to me. Like I don't know, just..."

46. Ms A told the Tribunal that she did not normally drink. At Dr Rrukaj's house she was drinking Ribena which she had brought with her. She later had some water, and one shot of vodka after Dr Rrukaj's insistence that she have an alcoholic drink. She also said that he had

made her at least one cup of tea but that she did not drink it and it went cold. On Dr Rrukaj's account, Ms A had three shots of vodka. He said that each shot was between 30-50ml. The Tribunal considered that these would have therefore been large, or double shots, according to Dr Rrukaj's account.

47. In the handwritten note taken of the police interview with Ms A, the police officer recorded that Ms A had said that Dr Rrukaj had had about 8 or 9 shots of alcohol over the course of the evening. By Ms A's account Dr Rrukaj started drinking at around 18.30. Dr Rrukaj's evidence, supported by some of the witness statements he proffered, was that he did not usually drink alcohol. The Tribunal considered that drinking the amount of alcohol suggested by Ms A would have had an impact on Dr Rrukaj's behaviour, particularly if he did not regularly drink alcohol.

48. The Tribunal noted and accepted that Ms A appeared, by the doctor's account, to have been intoxicated by the end of the evening. This was supported by Ms A's own account of how she felt, by the account of Mr B, and by the diagnosis of the medical staff of the Hospital when Ms A attended some hours later. Ms A's objective evidence was that she felt strange, not how she had felt in the past when she had had alcohol, that she felt as though she had been spiked. She talked of how her face felt numb and was puffy. It was Mr B's evidence that Ms A was doing *"a weird thing with her mouth, moving her jaw around and poking her tongue out"*, and that she was saying her mouth was numb and she could not feel either her tongue or her lips.

49. The Tribunal concluded that Ms A was intoxicated in some way, though it was not clear by what means she came to be intoxicated. The Tribunal then considered whether Ms A's state of intoxication, or distress and upset which she exhibited when she got into the car with Mr B, was such that it undermined the credibility of the account she gave as to the events that occurred.

50. The Tribunal considered that the evidence of Dr Rrukaj and Ms A had been broadly similar on many of the non-contentious factors that evening. Ms A had been reliable in her evidence in respect of XXX; the playing of music; dancing; going upstairs in the house to look at the bedrooms; Dr Rrukaj trying to feed her mango on a fork; them both leaving the house on the suggestion they were going to XXX; them driving towards her home but having stopped at the XXX where Dr Rrukaj had picked Ms A up earlier that evening; walking together arm in arm; Dr Rrukaj carrying Ms A's bag over his shoulder. Later in the evening, Ms A made reference to her stumbling by the bushes, and that is where she maintains that Dr Rrukaj caught her, would not let her go and a sexual assault occurred. In oral evidence, Dr Rrukaj accepted that Ms A had stumbled and accepted that he may have made contact with

Ms A when he caught her and tried to stop her falling, but that that was the limit of the contact. They both recalled a car pulling up and that was the one Mr B was in. Therefore, the Tribunal concluded that, despite her intoxication, her recollection of events bore a striking similarity with the recollection of Dr Rrukaj in terms of those matters which are uncontroversial.

51. In the circumstances, the Tribunal was satisfied that there was sufficient congruence between Ms A's account and Dr Rrukaj's account that Ms A's memory was not so impaired by intoxication that she did not recall events accurately.

A Conspiracy / Set up by Ms A and Mr B

52. Dr Rrukaj alluded in his written evidence to there having been a conspiracy to set him up, that this was perhaps part of an elaborate plan concocted between Ms A and Mr B. Indeed, Dr Rrukaj suggested to the police that he was suspicious that he was being 'groomed'.

53. Dr Rrukaj accepted that some events did happen but that they were consensual and that it was Ms A who was driving the events of the evening. It was his case that he and Ms A had met whilst XXX and that they had struck up a conversation, that is when they realised that they worked in the same hospital and were colleagues. He said that Ms A offered to show him how to XXX and that she had given him her mobile telephone number and they subsequently messaged each other and agreed that he would pick her up at an agreed location on Friday 13 August 2021, after he had finished work, for them both to go back to his home where she would teach him XXX. There was no indication within the messages which Ms A had sent to Dr Rrukaj that she had any concern regarding the arrangement to go to his home, and that they had a very agreeable evening which included them both having consumed some non-alcoholic drinks, some alcoholic drinks, music, dancing, consensual hugging, kissing, that they ate a meal together, that Ms A had gone upstairs in the house to take a look at the bedrooms, that Dr Rrukaj showed his bedroom to Ms A and that they had agreed they would spend the night under the same roof but that she first needed to go home and XXX.

54. Dr Rrukaj's account was that it was on the walk back to XXX that things suddenly changed, while they were walking as a 'pretend couple' hand in hand. Ms A had her phone in her other hand when she received a call, that he heard a male voice on the phone saying 'do it now', and that he saw her then put something in her mouth. He said he remembered the look on her face when she took that phone call. He said that he walked her to her friend who had arrived in a car to pick her up and when he was saying goodbye they hugged, and she

brushed the groin area of his trousers. He said that he did not think anything of it at the time but that on reflection sometime later, he felt as though he was being ‘groomed’.

55. It was also put by Mr McNerney on behalf of Dr Rrukaj, that following the incident, Ms A went back into work and told her managers about the incident. She then XXX. Mr McNerney suggested that had these events occurred as Ms A stated, then she would not have gone back into the hospital to work where she may have seen Dr Rrukaj. XXX.

56. The Tribunal considered the suggestion that these events were concocted by Ms A over the days and weeks that followed. However, this did not accord with either the messages which were sent between Ms A and Mr B prior to and on 13 August 2021, or Mr B’s account of what had happened when he and his XXX picked Ms A up after the events of that evening. Mr B said that after Ms A got in the car she broke down and immediately stated that Dr Rrukaj had sexually assaulted her.

57. Ms A told the police that she told Mr B: *“...I think he was going to rape me. I said, “He’s given me something”, because I felt really ill. I’d already told him that I felt really ill. Mr B took me – Mr B’s [XXX] dropped me off at Mr B’s house, Mr B lives in a [XXX] house. I went to the bathroom and I was sick. Then I couldn’t feel my face. Like I said to Mr B, I said, “My tongue feels really numb and my face feels really numb”. Like I was biting my tongue and I couldn’t feel the bite. I just – yeah, I felt really – that my face was just numb. I said to Mr B, “I don’t know what’s wrong with me”, I said, “I’ve never felt like this before”, I said, “I’m just – I’m worried”. Mr B said to me, he says, “You don’t look right.” I laid down because I felt really ill...”*

58. The Tribunal considered that for there to have been a conspiracy between Ms A and Mr B to have set Dr Rrukaj up, they would have needed to have pre-planned a sophisticated set up, including what appeared to be a chance meeting when Ms A and Dr Rrukaj were XXX. The Tribunal could see no evidence of this and saw no plausible reason as to why either Ms A or Mr B would wish to ‘groom’ or set up Dr Rrukaj.

Jealousy

59. Dr Rrukaj put forward the suggestion that the allegations and/or suggested conspiracy/set up may have come from the fact that Mr B was jealous that Ms A had chosen to spend the evening with him rather than Mr B, when she and Mr B had made arrangements to go to XXX that evening. At one stage Dr Rrukaj suggested that this had been driven by Mr B.

60. The Tribunal considered the messages that had been exchanged between Ms A and Mr B. Whilst Mr B did suggest going to XXX to celebrate XXX, there were no definite plans to meet that evening. On the contrary, Ms A and Mr B were planning to meet the following night. The Tribunal could find no hint of any jealousy from Mr B in the messages the two exchanged. The Tribunal also heard no evidence that there was anything other than a friendship between Ms A and Mr B. The suggestion of anything more than that, justifying any jealousy, was not put to either Ms A or Mr B by Mr McNerney on behalf of Dr Rrukaj in cross examination.

61. The Tribunal therefore rejected the suggestion of jealousy as a reason for the allegations.

Misinterpretation or misunderstanding

62. It was Dr Rrukaj's case that everything that happened between himself and Ms A, up until when he said Ms A took a phone call when they were walking XXX, was consensual.

63. The Tribunal noted Dr Rrukaj's account that it was Ms A that led the evening, that she had three shots of vodka, was dancing, that they hugged and kissed consensually and agreed to stay under that same roof that night. The Tribunal noted his account that he hoped to be more than friends with Ms A, although he suggested that this was not a romantic or sexual interest and that he merely hoped that XXX. The Tribunal considered the XXX explanation to be inconsistent with Dr Rrukaj on his own account asking Ms A for a dance and a cuddle whilst at his home, and with him asking her to walk hand in hand as a 'pretend couple' later in the evening.

64. The Tribunal noted that Ms A appeared conflicted about her decision to attend Dr Rrukaj's house, and was questioning her decision prior to 13 August 2021. The decision was causing her sufficient anxiety that she was not able to eat. The Tribunal considered that Ms A's state of mind appeared to have been one of being nervous, anxious and concerned about going to Dr Rrukaj's home, albeit in her messages to Dr Rrukaj, she did not demonstrate any concern. Against that backdrop, the Tribunal considered it implausible that Ms A was the one who had inexplicably changed her demeanour and had begun drinking alcohol shortly after arriving at Dr Rrukaj's home, and by the end of the evening had consumed three large shots. It considered it unlikely that Ms A would, in her state of mind, begin playing sexually suggestive music or dance with Dr Rrukaj or agree to spend the night with him, just hours after she was expressing concerns to Mr B about even going to Dr Rrukaj's house.

65. Dr Rrukaj admitted that there had been kissing between him and Ms A, but stated that this was consensual. It was recorded that he told the police:

“He also stated that he is kissed her on the cheek but doesn't know how many times. He states that they did not kiss anywhere else and denies using his tongue to lick her. He believes she may have kissed his cheek as he felt something as their faces were pressed together but does not know...”

66. In oral evidence, Dr Rrukaj said that he only kissed Ms A twice on the cheek, and for the first time suggested that these kisses were ‘European’ style kisses, and that it was normal in his culture to kiss someone on the cheek. On another occasion he suggested that the kiss was not deliberate or intentional, and that the edge of his mouth may have brushed Ms A’s face as they danced, cheek to cheek. Dr Rrukaj denied that that he kissed Ms A anywhere other than on her cheek, or in a romantic way, whereas Ms A alleged otherwise. Ms A was clear that Dr Rrukaj put his tongue in her ear and her mouth, on more than one occasion. She was also clear that Dr Rrukaj had touched her inappropriately when she had stumbled near the bushes, when they had left his house to go XXX. Dr Rrukaj denied this, but did offer a different explanation in oral evidence, suggesting that Ms A was unsteady on her feet, had stumbled, and that he had caught her. He denied any other contact, other than them walking arm in arm.

67. The Tribunal noted that there was no clear or agreed timeline of events between Ms A and Dr Rrukaj. The evidence from Ms A however was that when she sent the message to Mr B saying *“This is the weirdest night of my life...”* at 21.41, this was after she had XXX. She accepted that she would have left the house with Dr Rrukaj by around 22.15 as the message to Mr B saying *“call me and help...”* at 22.16 via Whatsapp and *“quick please”* was at 22.18 via Instagram, were both sent as they were walking away from XXX.

68. Ms A said that between the message at 21.41 and 22.16 that there had been escalating unwelcome physical contact in the form of touching her breast and putting his tongue in her ear and her mouth. When Ms A said she wanted to go home he also told her not to bring a taxi to that address. On her account, Dr Rrukaj had rubbed his erect penis on her backside as she was bending down to put on her shoes. She said she felt like she could not get away and that was why she needed help. The Tribunal considered that this evidence from Ms A did not suggest to it that there was any misinterpretation or misunderstanding between Ms A and Dr Rrukaj. It supported Ms A’s account that she was trying to get away from the doctor, because she felt uncomfortable about his increasingly inappropriate conduct.

69. The Tribunal was satisfied that there was no misinterpretation or misunderstanding on the part of Ms A as to what had occurred between her and Dr Rrukaj. Their accounts were very different on the significant points and there was no room for a misinterpretation or misunderstanding between those accounts.

There was not enough time for the alleged conduct to have happened

70. It was the contention of Mr McNerney that there was not enough time for the alleged conduct to have taken place given the short period between the various WhatsApp and Instagram messages that were exchanged between Ms A and Mr B.

71. The Tribunal noted that there appeared to be events that were alleged to have taken place at the house (paragraphs 1a-d of the Allegation), and other events which were alleged to have taken place after Dr Rrukaj and Ms A left the house (paragraphs 1e-g of the Allegation).

72. The Tribunal considered the timeline of the messages exchanged. At 20.49, Ms A sent an Instagram message to Mr B in which she says *“Hey, I’m ok. I’ll call later? My phone will die soon x”*.

73. At 21.41 Ms A sent Mr B a WhatsApp message which stated *“This is the weirdest night of my life”* with a ‘head exploding emoji’.

74. At 22.16 Ms A sent an Instagram message to Mr B stating *“Call me and help”*. This was quickly followed by a WhatsApp message at 22.18 stating *“Quick please.”*

75. At 22.23 Ms A sent a WhatsApp message stating *“I’m by mine”*, followed by another message at 22.28 which stated *“[XXX]. He won’t leave x”*

76. The Tribunal accepted that although the earlier events of the evening may have been a little odd, Ms A did not have any real concerns until later in the evening, hence the message which she sent at 20.49 indicating that she was ok. By 21.41 Ms A was sufficiently concerned to send a message indicating that she was having *“the weirdest night of my life”*. The Tribunal accepted that Dr Rrukaj and Ms A would have left the house at about 22.10, providing a little under half an hour in which the events Ms A alleges occurred and set out within paragraphs 1 a – d of the Allegation, to have happened. The Tribunal was satisfied that there was sufficient time, within that 29 minute window, for the events as alleged to have taken place at Dr Rrukaj’s house.

77. The Tribunal accepted that Dr Rrukaj and Ms A had left the house by approximately 22.10, and that they were already walking at 22.16 when Ms A sent her Instagram message. It also accepted that Mr B arrived shortly after Ms A had messaged Mr B at 22.28 saying that “...he won't leave...” That provided a window of approximately 14 minutes between 22.16 and approximately 22.30 for the events set out in paragraph 1 e – g of the Allegation to have occurred. The Tribunal was satisfied that 14 minutes or so was a sufficient amount of time for that which is alleged to have taken place. The Tribunal noted that Ms A did not suggest a prolonged event, but one which was reasonably quick consequent upon her stumbling near some bushes, and would likely have occurred over a matter of seconds, rather than minutes or hours.

78. The Tribunal therefore rejected the defence argument that there was insufficient time for that alleged by Ms A to have taken place.

It did not happen and/or Ms A was making it up

79. Dr Rrukaj maintained throughout that the alleged events did not occur and suggested that Ms A may have lied and/or made all of this up. He did not offer any explanation as to why Ms A would have made up what were on any account very serious allegations.

80. The Tribunal considered that the two *anchor points* it had identified earlier in its deliberations were important in determining what is most likely, on the balance of probabilities to have occurred between those two *anchor points*. The Tribunal concluded that if Ms A had made everything up, she would have had to have completely changed her presentation between having entered the house at around 18.30 and having left Dr Rrukaj's company at around 22.28. According to Dr Rrukaj, it was Ms A who had led the evening with the choice of music, dancing, going upstairs, agreement to stay the night under the same roof as him XXX.

81. The Tribunal did not consider it likely that Ms A would have entered Dr Rrukaj's home as a guest for the agreed purpose of showing him how to XXX and then to have taken control of his laptop, putting on sexually suggestive music when there was evidence that she was uneasy about the situation and she did not really know Dr Rrukaj prior to going to his home. The Tribunal was of the view that it would have been more likely that as host, in his own home, Dr Rrukaj would have initiated the offering of drinks, and that he would have chosen and played any music on his own laptop.

82. The Tribunal considered that the message Ms A sent to Mr B at 21.41 stating that this was the weirdest night of her life was indicative of the fact that she was not the instigator

leading the night, and that it was Dr Rrukaj who was engaging in behaviour which Ms A considered weird enough to comment on it to a friend.

83. The Tribunal also considered that given the initial *anchor point*, it was more likely that Ms A was shown upstairs in the house, rather than her initiating it. In her police statement she said:

“...I said to him that I should go soon and he said to me, “How late can you stay?” I said, “I can’t stay late”, I said, “[XXX].”. He was asking me to take my – bring my friends round and I said, “No”. He showed me upstairs in the house, like he showed me the stairs and I went to the top of the stairs, and he said that that was his room, and he said, “You can sleep with me in there if you want”. He said that I could stay over, and I said no, I was going home. Yes. So he gave me water - this is back downstairs. So I’m putting the XXX, and he made a salad and he said he would take me home after the salad.”

...

[Ms A] so I agreed to sit down and said, “Okay, let’s sit down”, and so we sat down, so he’s eating and I’m eating, and I said I was done and he put more on my plate, and I said, “Please, I’m full”, like I’m ready to go...I said, “I don’t feel well.” He told me to eat. So we sat down. I ate. I didn’t want any more. I said, you know, “I’m ready to go now”, and then he put another song on, I think, but I remember there was music on. I suppose, yes, so we were by the dining – at some point, we’d been out to the garden and he asked if he could show me a plum tree, but I think that was earlier on in the night.

...

So after the meal, I said, “Okay, I’m ready to go”. (Pause) Like, yeah, he was grabbing me, I was pulling away.

...

[Police] So all of these feelings are kind of going through your mind. Did at any point you think, “I need to just get out of here, and just go”?

[Ms A] Yeah. So he kept this up and he just kept grabbing me and I said, “I’ll just walk home”. I kind of got out of his hold. By that point, he’d put his tongue (pause) sorry. He put his tongue in my mouth, and I was like, “I have to get out of here”. So I got out of the hold, like, and I was just kind of push – no, sorry, sorry. (Pause) So I can’t remember at what point, but during that kind of struggle between me trying to push, like, get out of the hold, he’d been like putting his tongue in my ear, like grabbing me, like how he had before. He’d been kissing my cheeks, and I was just like this, like I’m closing my mouth and said, “Please stop. Please stop”, but he wasn’t. And I tried to

push out, but he lifted my feet off the ground so I couldn't get away and I was like wriggling..."

84. Ms A described a significant point during the evening when she was so concerned that she needed to get out and go home. Dr Rrukaj recalled Ms A's narrative about the XXX and then she would come back and stay under his roof, or they both go back to her home. The Tribunal accepted that Ms A was concerned about being in the house with Dr Rrukaj and accordingly found that it was not plausible that she would have gone up to Dr Rrukaj's bedroom and agreed to stay under the same roof, potentially in the same bed, within hours of arriving at his home. The Tribunal considered that what was more likely was that Ms A used XXX as an excuse to leave the house in which she believed that she was trapped, noting that she told the Tribunal that she thought the door was locked. The Tribunal did not therefore accept that there would have been two, seemingly unexplained, changes in Ms A's behaviour between the two *anchor points* that evening. The Tribunal accepted Ms A's account, supported by the extraneous evidence, as being more plausible and consistent than Dr Rrukaj's suggestion that she had lied or made everything up.

Further contentions

85. There was a further dispute within the evidence as to whether the front door of Dr Rrukaj's house was locked or unlocked. It was put to Ms A in cross examination that if she felt unsafe in Dr Rrukaj's company, she could have just left. Ms A said that it was her belief that the front door was locked although it was unclear about what type of door/lock type it was. She said that when she and Dr Rrukaj went into the house Dr Rrukaj locked the door as they went in. She said that she did not think anything of it as she would do that in her own home, that is, to lock the door behind her when she went in. When asked why she did not simply leave the house if she felt unsafe, Ms A retorted how was she to go through a locked door? She commented that she felt trapped. She told the Tribunal that the garden fence in the back garden was six feet high and not something that she could climb over. For his part, Dr Rrukaj denied that the door was locked, and in oral evidence he suggested that the house had a Yale lock that did not require a key to lock it.

86. The Tribunal considered that Dr Rrukaj would have had to have unlocked the front door initially from the outside so that they could enter, then go in, and then put the key back in the door, lock the door and take the key back out for Ms A to be correct. It noted that Ms A could not recall seeing Dr Rrukaj locking the door.

87. Given the discrepancy in accounts, it was unclear to the Tribunal whether the door was locked or unlocked. It was however satisfied that Ms A had a genuinely held belief that

the door was locked. Initially she did not think too much of the fact that the door was locked, but for someone who was anxious in the first place going to Dr Rrukaj's home and then feeling more unsafe as the alleged events unfolded, with an increasing feeling of panic, that belief that the door was locked would have been concerning to her.

Feeding fruit to Ms A (mango)

88. In Dr Rrukaj's account to the police he said that he had been feeding Ms A mango. It was his account in oral evidence that Ms A loved mango and that he had been feeding her mango directly into her mouth.

89. It was Ms A's account that Dr Rrukaj was trying to feed her mango but that she refused because she did not like mango and she told him this.

90. The Tribunal accepted that there was an attempted or actual feeding of mango from Dr Rrukaj to Ms A. That this event occurred provides support for Ms A's account of the events generally, and demonstrates that her recollection of events was not significantly hampered by her intoxication.

91. The Tribunal was presented with an agreed fact document following the conclusion of Dr Rrukaj's evidence in which set out in his Rule 7 response to the GMC dated 17 August 2021:

"I had not eaten supper so, as she was showing me how to XXX, I started boiling some eggs and preparing a green salad with avocado, tomato, lettuce and cucumber. At the same time, I cut a large mango and we both ate it using same fork. She said that she loved the avocado. And as thank you she allowed me to hug her forehead area."

92. The Tribunal considered that the feeding of mango was but one example of inconsistencies within Dr Rrukaj's account of events. In one account he suggested that Ms A had said that she loved mango and that is why he was feeding it to her, yet in another account he suggested that she, in fact, had said that she loved avocado. The Tribunal accepted that, on balance, Ms A did not like mango and was uncomfortable with Dr Rrukaj attempting to feed it to her from the same fork that he had been using, noting in particular that these events occurred during the Covid pandemic.

93. Having considered the various defence arguments that Dr Rrukaj had alluded to over time, the Tribunal went on to consider the specifics of each of the allegations.

94. In considering these paragraphs of the Allegation, the Tribunal reminded itself that Dr Rrukaj was a man of good character with no evidence of any previous regulatory findings before it. In considering his evidence, the Tribunal bore in mind that Dr Rrukaj had informed the Tribunal that he XXX. This was not an issue that had been put forward either in defence of his case, or as a reason for any actions he may or may not have undertaken, or his understanding of any of the circumstances in this case. Dr Rrukaj commented on this only insofar as it related to his understanding of the questions being put to him whilst giving his oral evidence, as opposed to supporting his case.

95. The Tribunal were cognisant of the fact that English was not Dr Rrukaj's first language. However, it bore in mind that he has worked in this country for many years and that there were no concerns as to his grasp of the English language.

96. The Tribunal also considered during the course of its deliberations the question of whether Dr Rrukaj was intoxicated, and whether this factor could have potentially led to his inhibitions being reduced, causing him to act in an uncharacteristic way and/or as alleged.

97. The Tribunal considered the facts of this case in the context of weighing the evidence of Dr Rrukaj and Ms A, and balancing that with the extraneous evidence, the text messages between Dr Rrukaj and Ms A and the messages between Ms A and Mr B.

98. Having addressed these issues, the Tribunal then went on to consider the specific allegations against Dr Rrukaj.

Paragraph 1a of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:

a. kissed her on the face on one or more occasion;

Determined and found proved

99. In her police interview, Ms A stated:

“Well, he'd been trying to kiss me, like, he was asking me for a kiss. He'd asked me when we got upstairs to stay there the night. I said no. He'd been grabbing me; like, he was kissing my face”

And:

- [Ms A] He was like kissing my face. He'd had his tongue on me; he had his tongue in my ear.*
- [Police] What's going through your mind when he's kissing you?*
- [Ms A] Well, I was pulling my face away. I said, "Please don't. Please stop".*

And further:

"..So I can't remember at what point, but during that kind of struggle between me trying to push, like, get out of the hold, he'd been like putting his tongue in my ear, like grabbing me, like how he had before. He'd been kissing my cheeks, and I was just like this, like I'm closing my mouth and said, "Please stop. Please stop", but he wasn't. And I tried to push out, but he lifted my feet off the ground so I couldn't get away and I was like wriggling like this..."

And after they had left the house:

"...I kind of tripped back into the bushes and then he kind of caught me and put his arms around me again, like around the middle of my body. He was kissing me again there..."

And further

"...He was putting his tongue in my ear again, he put his tongue in my mouth. He was kissing my face."

100. It was recorded that Dr Rrukaj said in his police interview:

"...He confirmed that he would have been happy with more than friendship though and at some point he has lifted her off the ground whilst dancing. He also stated that he kissed her on the cheek but doesn't know how many times. He states that they did not kiss anywhere else and denies using his tongue to lick her. He believes she may have kissed his cheek as he felt something as their faces were pressed together but does not know..."

101. In her oral evidence Ms A said that throughout the night Dr Rrukaj was grabbing her, kissing her and that she told him 'no', told him stop, but felt that her feelings were not taken into account or listened to. She said that she felt unsafe as when she told him to stop it was not enough to make him stop.

102. In his witness statement Dr Rrukaj conceded that:

“...Whilst we were dancing, I do accept that I kissed Ms A on the cheek once or possibly twice but I did not kiss her anywhere else and certainly did not place my tongue in her ear...”

103. Dr Rrukaj gave different accounts in his oral evidence. At one stage he suggested that the kiss was a ‘European’ kiss, and on another occasion suggested that the kiss was nothing more than the edge of his mouth brushing against Ms A’s cheek consensually as they danced, cheek to cheek. The Tribunal noted that when he gave his account to the police, and when he gave his witness statement, Dr Rrukaj did not qualify the type of kiss and did not suggest that it was a ‘European’ type of kiss. Further, although in oral evidence he said that it was the corner of his mouth that touched Ms A’s cheek, this was not an account which was given contemporaneously to the police, or in his witness statement.

104. On balance, and noting Dr Rrukaj’s initial account to the police and in his witness statement, the Tribunal accepted that Dr Rrukaj had kissed Ms A on the face, in the conventional sense, on more than one occasion. The Tribunal considered that these kisses, in this context were personal, and done in the privacy of his own home, and not at a time when he would have been greeting or saying goodbye to Ms A, when a ‘European’ kiss might have been expected to occur. By his own account, Dr Rrukaj kissed Ms A on more than one occasion.

105. The Tribunal also noted that on Ms A’s account, Dr Rrukaj kissed her on multiple occasions both whilst they were at the house and after they left the house. Whilst the Tribunal considered that paragraph 1a can be found proven in terms of Dr Rrukaj’s admission that he kissed Ms A on the cheek once possibly twice, the Tribunal preferred the account of Ms A in that he kissed her on multiple occasions, both at the house and after they had left the house.

106. The Tribunal therefore found paragraph 1a of the Allegation proved.

Paragraphs 1b(i) and (ii) of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:

b. put your tongue in Ms A’s:

i. ear on one or more occasion;

Determined and found proved

- ii. mouth on one or more occasion;
Determined and found proved

107. In her police statement, Ms A stated that:

“He’d had his tongue on me; he had his tongue in my ear.”

...

“By that point, he’d put his tongue (pause) sorry. He put his tongue in my mouth, and I was like, “I have to get out of here”. So I got out of the hold, like, and I was just kind of push – no, sorry, sorry. (Pause) So I can’t remember at what point, but during that kind of struggle between me trying to push, like, get out of the hold, he’d been like putting his tongue in my ear, like grabbing me...”

...

“He put his tongue in his mouth – he’s put his tongue in my mouth again, at that point” ...

“And like he was trying to kiss me, and I closed my mouth. It was only when I was talking that he managed to get his tongue in my mouth.”

108. When she was cross-examined about this, Ms A said that Dr Rrukaj had put his tongue in her ear and in her mouth both at the house, and in the walkway after they left the house.

109. Dr Rrukaj denied that he put his tongue in Ms A’s ear or mouth, and stated repeatedly that this conduct simply did not occur.

110. Having considered the evidence in the round, the Tribunal preferred the account of Ms A. It considered that her account was more plausible and credible on the balance of probabilities, given the broad consistency of her accounts to the police and to this Tribunal. The Tribunal did not consider that Ms A had made a mistake about the conduct, or misinterpreted it. It noted, in particular, Dr Rrukaj’s evidence that he had asked Ms A for a dance and a cuddle whilst at the house, the alleged agreement to spend the night together, and on his own admission asking Ms A to walk along as a couple.

111. The Tribunal therefore found paragraphs 1b(i) and (ii) of the Allegation proved.

Paragraph 1c of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - c. put your arms around the top of Ms A's arms and waist on one or more occasion; **Determined and found proved**

112. In her statement to the police, Ms A stated:

[Ms A] So I can't remember at what point, but during that kind of struggle between me trying to push, like, get out of the hold, and I tried to push out, but he lifted my feet off the ground so I couldn't get away and I was like wriggling like this ---

[Police] Okay. So just describe to me, because obviously I wasn't there, describe to me how he's lifted your feet off the ground.

[Ms A] Like he had his arms around me like how he'd grabbed me before and just like kind of pulled me up, I think. My feet weren't on the ground, my body was straight but my feet weren't on the ground.

...

[Police] Okay. So how has he lifted you? Describe to me how he's lifted you.

[Ms A] Like he just lifted me up... his arms were around like the top of my arms and my waist...He put his arms around me like this and lifted me up.

[Police] Okay, so were his arms around the top of your arms or your waist?

[Ms A] The top of my arms and my back, above my waist."

113. In her oral evidence Ms A said that Dr Rrukaj was grabbing her, put his tongue in her ear and mouth and she was closing her mouth and he had his arms around her, and she was trying to wriggle from his hold saying "Stop. Please stop", and he would not stop, but continued with his tongue and in kissing her.

114. On Dr Rrukaj's account, he and Ms A were dancing with their arms around each other, and that it was consensual. In his contemporaneous police interview, it is recorded that he said:

"She then stood up from the chair and we were holding each other's hands and dancing away from the supper table and moving towards the living room area. We did then get

closer to one another. She had her hands around the back of my neck and my hands were around the back of her neck. And we danced this way on two occasions and without any pressure or resistance.”

115. Dr Rrukaj accepted that he had put his arms around Ms A and lifted her from the ground, whilst dancing, at the house. Ms A’s account however was that it was more that Dr Rrukaj had picked her up so that she could not get away from him, rather than a consensual mutual dance as he had described.

116. The Tribunal did not consider that Dr Rrukaj’s account was consistent with the wider evidence it has seen and heard. The Tribunal considered that Ms A’s account was more plausible and, on the balance of probabilities, more likely than not to have occurred. The Tribunal accepted Ms A’s account as being consistent with the general background against which these events occurred, that is an escalation of unwanted conduct from Dr Rrukaj which was causing Ms A increasing concern and panic for her welfare. The Tribunal preferred her evidence both in respect of the specific circumstances of this allegation and that it was supported by the wider context of the events as already found.

117. The Tribunal therefore found paragraph 1c of the Allegation proved.

Paragraph 1d of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - d. rubbed your groin against Ms A’s bottom when she bent over to tie the laces on her shoes; **Determined and found proved**

118. In her statement to the police, Ms A provided a vivid account of this alleged event. The Tribunal noted that she provided this account almost as an afterthought, but that did not necessarily mean that it carried less weight:

“[Ms A] He just gathered his keys and I can’t remember if he – oh my God, I’m sorry, I’ve left something out. I can’t remember if he put his shoes on or if he had his shoes on already, but I was putting my shoes on by the door. I bent over putting my laces on, he was like stood behind me, like, putting his penis on my butt, like, through his trousers but like he was just rubbing his groin like on my butt. It was when I was bending down to tie my laces up, so I stood up really quickly and just, yeah, I got outside.

[Police] How do you know it was his penis that he was rubbing against your butt?

[Ms A] *I could just feel it.*

[Police] *Okay. What did it feel like?*

[Ms A] *Like a penis, like people have done that before but with my consent; like, I've been in a relationship and I know what that feels like.*

[Police] *Okay. Could it have been anything else other than his penis that he was rubbing against you?*

[Ms A] *I don't think so.*

[Police] *What did you feel against you – I know you said that he was rubbing his groin against your butt, but what was it that you felt against your butt?*

[Ms A] *I just felt he was rubbing it from side to side against me...It felt like it was hard."*

119. In her oral evidence Ms A was less definitive, in that due to the passage of time she could not recall this incident exactly. During cross examination Ms A accepted that it could have been possible that Dr Rrukaj had brushed by her whilst she was putting her shoes on, and she accepted that this would have been very different to a serious sexual assault. She clarified though that this happened a long time ago, that she did not have a clear memory of it but that what she said in her police interview was accurate at the time.

120. The Tribunal considered whether as a result of Ms A's acceptance of the possibility that Dr Rrukaj may simply have brushed past her, that made her evidence any less compelling or credible. It was suggested by Mr McNerney that the Tribunal might expect that someone who went through such an experience would have a clear memory of it. He reminded the Tribunal that Ms A could not clearly recall the event, and relied on her police statement.

121. The Tribunal reminded itself that Ms A provided her statement to the police on 19 August 2021, just 6 days after the events on 13 August 2021. The Tribunal accepted as credible the suggestion from Ms A that if that is what she told the police at that time, then it was a true account. The Tribunal also bore in mind that Ms A's account to the police was quite graphic in nature, without being embellished.

122. It was recorded that Dr Rrukaj told the police shortly after the events that:

“He denies pressing his penis into her bottom and states she did put her shoes on and he walked past her to unlock the door. He denies that he would of brushed up against her in doing so.”

123. The Tribunal reminded itself that this was not a verbatim account of the interview, rather a note of what was said. However, the Tribunal interpreted this part of the transcript as meaning that the possibility of Dr Rrukaj accidentally brushing against Ms A was specifically put to him during his police interview, and that this was denied as a possibility at that time by Dr Rrukaj. Dr Rrukaj seemingly did not offer any alternative explanation at the time, maintaining a flat denial.

124. In his witness statement, dated 17 January 2025, Dr Rrukaj said:

“...She says that when she was putting her shoes on by the door about to leave that when she bent over putting her laces on, I stood behind her putting my penis on her bottom. There may have been an unintentional brushing pass Ms A, but I certainly did not stand behind her to deliberately force my groin into her.”

125. In his oral evidence Dr Rrukaj denied the allegation and said that this was not true. Dr Rrukaj said that he left the outside door open and realised that the car key was on the desk so ran inside and then back out to unlock the car and then came back in. Dr Rrukaj accepted that he may have brushed past Ms A when he was running to open the front door and then going back to get the get the car key. Dr Rrukaj said that he was not sexually aroused, that he did not do that and that he was not that type of person. He said that he had read what Ms A wrote, that he was deeply troubled by it and that he had struggled to digest it.

126. The Tribunal determined that Ms A’s account to the police, which was both vivid and detailed, and made less than one week after the event, carried greater weight and was more compelling than her oral evidence. The Tribunal considered that it was a mark of Ms A’s honesty that she conceded under cross examination the possibility that Dr Rrukaj may simply have brushed against her, and this militated against the suggestion that she had misremembered events or made them up. It noted the inconsistency in Dr Rrukaj’s account of this event, noting in particular that the accidental brush which Dr Rrukaj maintains as a possibility now, was denied as a possibility proximate to the event. The Tribunal considered that this made Dr Rrukaj’s account less plausible.

127. Having scrutinised all the evidence in respect of this allegation, the Tribunal concluded that, on the balance of probabilities, Ms A’s account of the events is more likely than not to have occurred.

128. The Tribunal therefore found paragraph 1d of the Allegation proved.

Paragraph 1e of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - e. put your hand on Ms A's breast over the top of her jumper;
Determined and found proved

129. In her police statement, Ms A stated when she and Dr Rrukaj were at the house, he put his hand over her top on her breast.

130. In the record of his statement to the police, Dr Rrukaj denied that he touched Ms A's breasts, either outside or under clothing.

131. In cross examination Dr Rrukaj denied that he touched Ms A's breast over her top, and he denied that he put a hand on her breast. He said that this allegation was very troubling to hear. Whilst Dr Rrukaj stopped short of calling Ms A a liar, he accepted that she must have given an incorrect account to Mr B, to the police, to the hospital, to the GMC and to this Tribunal.

132. The Tribunal considered that the account provided by Ms A was credible in the context of the events which unfolded that evening and the escalating course of conduct which Dr Rrukaj demonstrated towards her. It determined that, on the balance of probabilities, Ms A's account was the more plausible and more likely than not to have occurred.

133. The Tribunal therefore found paragraph 1e of the Allegation proved.

Paragraph 1f of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - f. put your hand underneath Ms A's jumper and grabbed her breast over her bra and squeezed it;
Determined and found proved

134. The Tribunal noted that paragraph 1f was alleged to have taken place outside, after Dr Rrukaj and Ms A had left the house and were on their way towards putting Ms A's XXX on Dr Rrukaj's account, or whilst waiting for Mr B to pick her up, on Ms A's account. This conduct

is alleged to have occurred near some bushes which were situated near a walkway which went behind Ms A's home.

135. In her police statement, Ms A stated that Dr Rrukaj started "*stroking me there and I sort of pushed his hand away but then he put his hand up my top.*" She said that this was towards the end of the night when she was struggling to get away. She said that Dr Rrukaj grabbed her breast over her bra and was squeezing it. Ms A said that this was when she managed to get away because he had not grabbed her around her body. She said he had his hand on her back pulling her but his other hand was not around her so she pulled herself out of his hold to the side.

136. In her oral evidence, Ms A confirmed that Dr Rrukaj had put his hand up her top and was touching her breast over the bra. She was asked whether this contact was something which could be explained by the fact that she was unsteady on her feet, and may have occurred in the context of Dr Rrukaj trying to stop her from falling when she stumbled. The Tribunal was struck by the look of incredulity when this suggestion was put to Ms A, and her response that 'you don't touch someone's groin when they're unsteady, then put your hand up their top.'

137. As set out above, Dr Rrukaj denied both to the police and before this Tribunal that he touched Ms A's breast either over or under her clothes.

138. Having considered the evidence in the round, the Tribunal rejected Dr Rrukaj's flat denial. It preferred the evidence of Ms A which was broadly consistent in her accounts to the police and to this Tribunal, and which was tested under cross examination. She was clear about what had happened and recalled the details and circumstances in which the touching happened. The Tribunal rejected the suggestion that she had made up the events, that she had misremembered what happened or that any contact was accidental in the context of Dr Rrukaj catching her to avoid her falling, as all being inherently unlikely.

139. The Tribunal therefore found paragraph 1f of the Allegation proved.

Paragraph 1g of the Allegation

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:

- g. put your hand over the front of Ms A's trousers and touched her in the area of her groin. **Determined and found proved**

140. In her statement to the police, Ms A confirmed that at this point she was unsteady on her feet, that Dr Rrukaj caught her with his arms around her middle and that he was putting

his tongue in her ear and mouth again, kissing her face and that he put his hand on the front of her trousers between her legs in her groin area, below her waistband. Ms A said that Dr Rrukaj started stroking her there and she pushed his hand away which was when he put his hand up her top.

141. In cross examination it was put to Ms A that the contact between her and Dr Rrukaj could be explained away by the fact she was barely able to walk, or may have been accidental, in the context of Dr Rrukaj trying to make sure that she did not fall. As set out above, this suggestion was denied by Ms A.

142. Dr Rrukaj has suggested that it was in fact Ms A that had touched his groin, although his accounts as to when and how this happened has changed over time. His police interview records:

“Near to her house - around 50 metres away and he feels as though someone is giving her instructions on the phone. he has said bye to her and they have hugged. Her hand has brushed his penis outside of clothing as she did this but he thought nothing of it.”

143. In contrast, in his witness statement, Dr Rrukaj stated:

“I cannot be certain exactly of the time but it was about five minutes before the [XXX] car appeared on the other side of the road. At that time, I thought it was unintentional/accidental hand touching over my groin area, but after I got arrested, I started to suspect that she perhaps attempted to provoke me while this was part of the order she received when she was told to “do it now”. I heard it loud and clear when Ms A answered the telephone or social media call. Whilst talking to me, I felt her right hand running over my groin area. I thought it was accidental touch and I was not aroused.”

144. The Tribunal considered whether the contact to the groin as Ms A described was an accident because she stumbled, or that it may have occurred as Dr Rrukaj tried to steady her, but rejected this suggestion as being inherently unlikely. The Tribunal accepted that Ms A was not behaving normally. However, the Tribunal rejected the contention put forward on behalf of Dr Rrukaj that because she was behaving abnormally and was very distressed, that it was reasonable to say that this event did not happen.

145. At no point has Dr Rrukaj himself suggested that there was any misinterpretation here, rather he suggested some sort of conspiracy. Alternatively, it was suggested that Ms A was so intoxicated and that her memory could not be relied upon. The Tribunal has already addressed all of these arguments above, and rejected them as being unlikely, on the balance

of probabilities. Even in her intoxicated state, the Tribunal was satisfied that Ms A had a clear recollection of events that could be relied upon, noting that her recollection was broadly consistent with Dr Rrukaj's account in a number of respects and supported by the uncontentious factors which both she and Dr Rrukaj recalled of the evening. In contrast, Dr Rrukaj's account was inconsistent, having changed over time.

146. On balance therefore, the Tribunal preferred the evidence of Ms A and therefore found paragraph 1g of the Allegation proved.

Paragraph 2a in respect of paragraph 1a-g of the Allegation

2. Your actions as set out at paragraph 1 were:

- a. carried out without Ms A's consent;
Determined and found proved

147. The Tribunal heard evidence that when Dr Rrukaj was dancing with Ms A that they had their arms around each other, were dancing closely and that, on Dr Rrukaj's account that he kissed her on the cheek and that was consensual. On Dr Rrukaj's account this was a mutual and consensual coming together. The Tribunal has rejected this account.

148. The Tribunal reminded itself of the first *anchor point* which it had set out earlier, that Ms A had concerns about going to Dr Rrukaj's home, she did not know him, she was anxious and was worried about putting herself in an unsafe situation alone with him. It also noted the second *anchor point*, being Ms A's presentation at the end of the night, after being collected by Mr B. Between those two *anchor points*, there is evidence in the messages exchanged between Ms A and Mr B that Ms A was becoming increasingly concerned for her welfare and was asking for help from Mr B.

149. It was Ms A's account that she just wanted to get through XXX and go home. The Tribunal reminded itself of the text message sent to Mr B, that it was '*the weirdest night of my life*' and things began to escalate from there. She did not want to anger or upset Dr Rrukaj as she did not know how he would react if she rejected his advances, and she felt trapped in the house. The Tribunal was satisfied that given the facts it has already found that Ms A may have presented as intoxicated, and that by Ms A's account, Dr Rrukaj himself had 8 or 9 shots of alcohol himself. He did not drink regularly and was likely to have been affected by alcohol, particularly in such large quantities. On his own account, Dr Rrukaj was lonely and was open to, and wanted, more than friendship with Ms A, albeit not romantically or sexually, he said. The Tribunal had no plausible evidence before it to suggest that Ms A felt the same way; rather the evidence it did have suggested that Ms A felt very much to the contrary.

150. The Tribunal was satisfied that Dr Rrukaj had kissed Ms A on multiple occasions, put his tongue in her ear and mouth and put his arms over the top of Ms A's arms and waist on one or more occasions, without consent. The Tribunal heard evidence from Ms A that she had struggled and wriggled to break from Dr Rrukaj's hold and told him 'no' and to stop on more than one occasion, but that he did not listen to her. She repeatedly asked to go home towards the end of the evening at the house. She was not a willing participant in these acts and the Tribunal accepted that these were not consensual acts.

151. In respect of paragraph 1d, this act was carried out without Ms A's consent, as she was bending over to put her shoes on to leave the house. Dr Rrukaj took advantage of Ms A by standing behind her and pressing his groin into her bottom. Ms A said that she stood up really quickly and got outside. This act by Dr Rrukaj was undertaken without the consent of Ms A and done so in the context of Ms A trying to get out of the house and away from Dr Rrukaj.

152. In respect of paragraph 1e, it was Ms A's evidence that she did not consent to Dr Rrukaj putting his hand on her breast over or under her top, and the Tribunal accepted this account. Again, it occurred at a time when Ms A had been trying to get out of the house and away from Dr Rrukaj.

153. The Tribunal therefore found paragraph 2a proved in respect of paragraphs 1a-e of the Allegation.

154. The Tribunal reminded itself that paragraphs 1f and g of the Allegation occurred once they had left the house. These instances happened when by all accounts Ms A presented as intoxicated, by whatever means. The Tribunal was satisfied that her recollection of events could nonetheless be relied upon. The Tribunal accepted that Ms A had stumbled and that when Dr Rrukaj grabbed her to steady her, he put his hand underneath her jumper and grabbed her breast over her bra and squeezed it, and put his hand on the front of her trousers and touched her in the groin area. This conduct all occurred when Ms A was trying to get away from Dr Rrukaj, after she had contacted Mr B asking for his help. Given that which had gone before, and the fact of Ms A's presentation when Mr B picked her up (the second *anchor point*), the Tribunal accepted the account of Ms A as being the more plausible and accordingly found that Dr Rrukaj's actions were carried out without her consent.

155. For the avoidance of doubt, as part of its considerations, the Tribunal considered whether there may have been a point where Ms A consented to some events, for example dancing and kissing, but later changed her mind. The Tribunal considered this was implausible, having regard to the anxiety Ms A exhibited about going to Dr Rrukaj's house in the first place. Further, the Tribunal considered it unlikely, if some consensual activity had

taken place, that Ms A would then invent an assault in the bushes. The Tribunal considered that this would be an implausible proposition. The Tribunal reminded itself of Ms A's presentation both before and after going to Dr Rrukaj's home and that she would have had to have had two distinct changes of character, for Dr Rrukaj's account to be correct; one when she arrived at his house, and one after she was dropped off at XXX, the latter change being to return to how she was before she had arrived at Dr Rrukaj's house. The Tribunal considered this to be implausible.

156. The Tribunal therefore found paragraph 2a proved in respect of paragraph 1f and g of the Allegation.

Paragraph 2b in respect of Paragraph 1a-g of the Allegation

2. Your actions as set out at paragraph 1 were:

b. sexually motivated. **Determined and found proved**

157. The Tribunal adopted the definition of the phrase 'sexually motivated' from the High Court in the case of *Basson v GMC [2018] EWHC 505 (Admin)*. The guidance indicated that 'a sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship'. To decide on the balance of probabilities whether conduct was sexually motivated, the Tribunal was therefore required to consider Dr Rrukaj's state of mind at the time, which was something to be proved through inference or deduction from surrounding evidence, rather than through direct observation. The Tribunal acknowledged the need for proper scrutiny of all the evidence in order to determine whether a sexual motivation could be inferred, including weighing up the extent to which the evidence of the doctor's positive good character might be relevant to the issue of sexual motivation.

158. The Tribunal considered the case of *Haris v General Medical Council [2021] EWCA Civ 763* where it was advised that sexual motivation can be inferred from a number of factors, including the fact that the touching was of the sexual organs, or the absence of any plausible reason for the touching.

159. The Tribunal had particular regard to the fact that Dr Rrukaj is of good character, making it inherently less probable that he behaved in the manner alleged.

160. The Tribunal considered Dr Rrukaj's actions at paragraphs 1a-c, and whether companionship was a motivation for Dr Rrukaj because he was lonely. It reminded itself that these kisses began after Dr Rrukaj had been consuming alcohol, having been dancing with Ms

A and asking for a cuddle and then kissing her. The kissing was repeated on a number of occasions.

161. The Tribunal has already rejected Dr Rrukaj's account that he kissed Ms A in the terms in which he said, namely that it was a cultural/ 'European' type kiss. The Tribunal considered that kissing Ms A on multiple occasions, in the manner found proved, was conduct that could only be considered to be either in pursuit of sexual gratification or in pursuit of a future sexual relationship. Dr Rrukaj accepted that the music was sexual in nature and that he was hoping for more than friendship with Ms A. Though he said that his interest was not romantic or sexual, this conflicted with his account that they had agreed to spend the night together, under the same roof. The Tribunal could identify no other reason as to why he would have acted in this way other than it having been sexually motivated.

162. The Tribunal was satisfied that, for these same reasons, Dr Rrukaj's actions in putting his tongue in Ms A's mouth and ear on more than one occasion was sexually motivated, as it could identify no other plausible reason for him having done so.

163. The Tribunal therefore found paragraph 2b proved in relation to paragraphs 1a-c of the Allegation.

164. In respect of paragraphs 1d-g, the Tribunal was satisfied that there was no ambiguity in a man rubbing his groin against woman's bottom, and by Ms A's account when his penis was erect; grabbing a woman's breast either over or under her clothes and squeezing her breast; touching her groin area between her legs over her trousers. The Tribunal concluded that such conduct could not be anything other than sexually motivated.

165. The Tribunal was of the view that Dr Rrukaj probably did not set out or plan to follow this course of action when it was agreed that Ms A would come to his home and XXX. It was however satisfied that he did hope that something romantic or sexual would happen with Ms A. It considered that an opportunity presented itself when Ms A agreed to come to his home to XXX, that he tried to develop the relationship with her, that he had probably consumed some alcohol and that he had then proceeded to behave in an uncharacteristic way. Whilst this was out of character, the Tribunal was satisfied that Dr Rrukaj's conduct both without consent and sexually motivated.

166. The Tribunal therefore found paragraph 2b proved in respect of paragraphs 1d-g.

The Tribunal's Overall Determination on the Facts

167. The Tribunal has determined the facts as follows:

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

1. On 13 August 2021 you behaved inappropriately towards Ms A in that you:
 - a. kissed her on the face on one or more occasion;
Determined and found proved
 - b. put your tongue in Ms A's:
 - i. ear on one or more occasion;
Determined and found proved
 - ii. mouth on one or more occasion;
Determined and found proved
 - c. put your arms around the top of Ms A's arms and waist on one or more occasion;
Determined and found proved
 - d. rubbed your groin against Ms A's bottom when she bent over to tie the laces on her shoes;
Determined and found proved
 - e. put your hand on Ms A's breast over the top of her jumper;
Determined and found proved
 - f. put your hand underneath Ms A's jumper and grabbed her breast over her bra and squeezed it;
Determined and found proved
 - g. put your hand over the front of Ms A's trousers and touched her in the area of her groin.
Determined and found proved
2. Your actions as set out at paragraph 1 were:
 - a. carried out without Ms A's consent;
Determined and found proved

- b. sexually motivated.

Determined and found proved

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

Determination on Impairment - 06/03/2025

168. This determination will be handed down in private. However, as this case concerns Dr Rrukaj's alleged misconduct, a redacted version will be published at the close of the hearing.

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

The Evidence

170. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions on behalf of the GMC

171. Mr Birkby provided written submissions to which he spoke. He referred the Tribunal to the relevant legal principles it should consider when determining misconduct and impairment. In his written submissions he referred the Tribunal to the 2024 version of Good Medical Practice. The Tribunal questioned whether this was the correct version of Good Medical Practice as the one in place at the time was Good Medical Practice (2013, revised in 2020) ('GMP'). Mr Birkby said that it made no difference as there was a golden thread which runs through both documents about respect, professionalism and the need to maintain both elements when dealing with colleagues, albeit framed slightly differently. He said it was probably a matter of style over substance.

172. Mr Birkby submitted that the proven allegations constitute serious misconduct where they breached GMP and that the GMC relied upon the provisions of GMP and "Maintaining personal and professional boundaries". He submitted that the proven facts were committed against a junior colleague in circumstances where she was particularly vulnerable, by virtue of the locations and timing of the index incidents, her age and her level of intoxication. He

submitted that alcohol was used to facilitate the proven allegations, even though the Tribunal did not find that Dr Rrukaj spiked Ms A's drinks, and that Dr Rrukaj's actions represented a breach of trust in respect of Miss A. He said that these actions were committed whilst Dr Rrukaj was under the influence of alcohol, were committed over a sustained period, across different locations. The actions had caused harm to Ms A in that she had XXX and there remained a residual impact on her, given that Dr Rrukaj's actions amounted to sexual assault.

173. Mr Birkby then referred the Tribunal to the overarching objective and submitted that this was not just to protect, promote, maintain the health, safety and well-being of the public, but that it was also there to maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of that profession. He also referred the Tribunal to the judgment of Mr Justice Jay in *GMC v Chaudhary [2017] EWHC 2561* where he cited with approval the judgment of Mrs Justice Cox in *Grant* in relation to considering impairment: *"In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances."*

174. Mr Birkby submitted that the particular circumstances of this case constituted such serious misconduct that were a finding of impairment not made, a reasonably and properly informed member of the public would be offended. He said that a finding of impairment was necessary to maintain public confidence in the profession, and to promote and maintain proper professional standards and conduct for members of the profession.

175. Mr Birkby submitted that when there was a breach of GMP and the principles which underlie it, it was not simply a test as to whether or not this is a good doctor and whether or not he is performing well in his role; there were also those matters which are set out in the overarching objective - public confidence and professional standards. Mr Birkby submitted that another matter in this case was Dr Rrukaj's complete denial of the facts and that there was no evidence before this Tribunal that he has taken any steps towards remediation. Mr Birkby submitted that it could not therefore be properly suggested that Dr Rrukaj has developed any real insight into his behaviour and that the misconduct has not been remediated. He submitted that it could not be said that Dr Rrukaj has moved on from the behaviour he displayed and found proved because he has not engaged with the problem. Mr Birkby submitted that for those reasons a finding of impairment should be made in relation to the serious misconduct in this case.

Submissions on behalf of Dr Rrukaj

176. Mr McNerney submitted that public safety breaks down into the three elements of the overarching objective and he invited the Tribunal to think about his submissions on impairment with the question of public safety in mind. He said that this was about current and ongoing risk, and he invited the Tribunal to find that there was no such risk. Mr McNerney submitted that in respect of the nature of the misconduct, it did not pose a continuing threat and there were no patients involved. He said that these events happened on a social occasion and that there was no risk of repetition of the conduct. Mr McNerney said that it was out of character, both before the incident in an unblemished work record and personal life, and then afterwards, for nearly three and a half years, with no reoccurrence.

177. Mr McNerney referred the Tribunal to its finding on fact and submitted that the most serious allegation it found lasted a matter of seconds and the nature of the misconduct suggested that there was no current and ongoing risk. He invited the Tribunal to look at the evidence of what has happened since the incident, and that there was no risk of repetition in the last three and a half years of medical practice and that the Stage 2 evidence suggested that Dr Rrukaj was constantly operating at the highest level of clinical practice.

178. Mr McNerney submitted that when combining the nature of the misconduct, and those factors set out above, the Tribunal could say to itself that there was no current and ongoing risk and therefore should not find impairment. He submitted that in order to satisfy the public safety aspect, what the Tribunal could do instead of the sledgehammer of making a finding of impairment, would be to issue a warning. Mr McNerney said that this was an unusual case and when considering the time since these events and the near 30 years of medical practice since qualification, the misconduct could be considered as a 'one off'. He submitted that by its nature, the conduct was very unlikely to happen again. He submitted that the imposition of a warning would serve the purpose of all three limbs of the overarching objective and would reassert to Dr Rrukaj and others that this sort of misconduct does not go unpunished, because a warning would be a punishment.

179. Despite Mr McNerney referring to 'misconduct' throughout his submissions, upon a direct question from the Tribunal as to whether misconduct was conceded, Mr McNerney indicated that he had had no specific instructions on this point. He submitted that on the basis of the facts found proved, the Tribunal may well go on to find misconduct, but he ultimately remained neutral on the issue.

The Relevant Legal Principles

180. 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.

181. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: firstly whether the facts as found proved amounted to misconduct which qualifies as serious misconduct, and if so secondly to consider whether Dr Rrukaj’s fitness to practise is impaired.

182. The Tribunal must determine whether Dr Rrukaj’s fitness to practise is currently impaired, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remediated and any likelihood of repetition.

183. The Tribunal must bear in mind the statutory overarching objective as set out in s1 Medical Act 1983 namely 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.

184. There is no statutory definition of misconduct and the decision in every case as to whether the misconduct is serious has to be made by the Tribunal exercising its own judgment on the facts and circumstances in light of the evidence.

185. In approaching the decision, the Tribunal had regard to the case of *Roylance v General Medical Council (No.2)* [2000]1 AC 311 (UKPC) which states:

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word professional which links the misconduct to the profession [of medicine]. Secondly, the misconduct is qualified by the word serious. It is not any professional misconduct which would qualify. The professional misconduct must be serious.”

186. In *Nandi v General Medical Council [2004] EWHC 2317 (Admin)*, Collins J observed at §31 that in other contexts misconduct has been described as “conduct which would be regarded as deplorable by fellow practitioners”.

187. There is no statutory definition of impairment. The Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. In particular, the Tribunal considered whether its findings of fact showed that Dr Rrukaj’s fitness to practise is impaired in the sense that he:

- a. *‘Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. *Has in the past and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.’*

188. The Tribunal must have regard to the testimonials offered in support and attach appropriate weight to them.

The Tribunal’s Determination on Impairment

Misconduct

189. In determining whether Dr Rrukaj’s fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct. The Tribunal considered its previous determination, whereby it found that Dr Rrukaj had engaged in an escalating course of inappropriate conduct towards Ms A, who was a junior colleague. The conduct was carried out without her consent, and was sexually motivated.

190. On the basis of the facts found proved, the Tribunal did consider the conduct to amount to misconduct.

191. The Tribunal then went on to consider whether the misconduct was serious. The Tribunal reminded itself that this conduct involved the sexual assault of a junior colleague, of such seriousness that, at that time, Ms A considered that she was going to be raped. Although the events occurred outside of the workplace, Ms A was in a vulnerable position, considering herself to be trapped within Dr Rrukaj's home. She was the focus of an escalating course of conduct in Dr Rrukaj's home, and later on a public path, which made her feel increasingly uncomfortable, such that not only did she want to escape, she sought the help of a friend to extricate her from the situation she found herself in. There was a clear power imbalance, with Dr Rrukaj being a more senior clinician and XXX. There was also a lack of consent which Ms A expressed by her asking Dr Rrukaj to stop, and asking repeatedly to go home.

192. The Tribunal also concluded that Dr Rrukaj's breached paragraphs 1, 36, 37 and 65 of GMP.

"1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law."

"36. You must treat colleagues fairly and with respect."

"37. You must be aware of how your behaviour may influence others within and outside the team."

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

193. The Tribunal did not explicitly consider GMP 2024, it considering it unfair to hold Dr Rrukaj to standards which were not in place at the time of these events, noting that sexual misconduct is now specifically addressed in 2024 GMP.

194. The Tribunal concluded that Dr Rrukaj's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

Impairment

195. Having found that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Rrukaj's fitness to

practise is currently impaired. The Tribunal had regard to paragraph 76 of the judgment in the case of *CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin)*, in which Mrs Justice Cox set out the helpful and comprehensive approach of Dame Janet Smith in her 5th Shipman Report to determining issues of impairment. In the present case, the Tribunal considered that limbs (b) and (c) are engaged.

196. The Tribunal then considered the approach taken in *Cohen*. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of remediation and insight, and the likelihood of repetition, balanced against the three elements of the overarching statutory objective. It accepted that sexual misconduct is difficult to remediate, but was nonetheless conduct that, in general terms, is remediable. The Tribunal noted its previous finding that this was an unplanned series of events, out of character for Dr Rrukaj, at a time when he was lonely and perhaps under the influence of alcohol which he did not normally consume.

197. In relation to insight and remediation, the Tribunal considered that there was no evidence of remediation before it, and only limited evidence of Dr Rrukaj having developed some insight. Within his witness statement, Dr Rrukaj suggests that he had reflected on his behaviour of 13 August 2021 and accepted that he was perhaps ‘foolish’ to invite Ms A round to his home. His witness statement suggests that he has reflected on his conduct, with a view to ensuring that he does not put himself in similar situations in future. The Tribunal noted that after crossing paths with Ms A in XXX, Dr Rrukaj had decided to take a job in Cornwall, for his own wellbeing but also at the same time thinking that that would be better for Ms A. In contrast to this however, the Tribunal noted that several of Dr Rrukaj’s character witnesses appear to have been told that the allegations were brought, falsely, against Dr Rrukaj as part of a campaign of victimisation and/or bullying. The Tribunal also noted the contents of Dr Rrukaj’s most recent appraisal, which makes reference to him being the victim of reprisal in response to him ‘whistle blowing’. None of these issues were pursued by Dr Rrukaj as part of his defence to these proceedings. Further, the Tribunal had received no evidence that Dr Rrukaj had reflected significantly on the root causes of his behaviour, or the impact of his misconduct on Ms A, other colleagues and the wider profession. On that basis, the Tribunal was satisfied that Dr Rrukaj’s journey to developing insight, and to evidencing remediation, is not only incomplete but at a rudimentary stage.

198. The Tribunal considered the risk of repetition in this case. The Tribunal read and considered the multi source feedback submitted by Dr Rrukaj, and the testimonials it had received from friends and colleagues of Dr Rrukaj. They spoke in glowing terms of a highly respected, well-regarded and attentive clinician and colleague. The Tribunal noted Dr Rrukaj’s previous good character, and the absence of any concerns between the date of the

events complained of and today, a period of some 3 ½ years. The Tribunal observed that Dr Rrukaj had XXX. He had also sought support from the Christian Medical Fellowship and was receiving regular pastoral care sessions lead by a retired GP. The Tribunal noted that at the time of events in August 2021 Dr Rrukaj had consumed some alcohol which may have contributed to his acting in an uncharacteristic way towards Ms A, at a time when he was, on his own account, lonely, looking for company and open to something more than friendship developing. Nonetheless, the Tribunal considered there to be limited evidence of insight and no evidence of any remediation in this case, such that there remains a risk of repetition. XXX

199. The Tribunal considered Mr McNerney’s submissions and accepted that Dr Rrukaj appears to be a good doctor, and that this was an isolated episode in an otherwise long and unblemished career. It further accepted that this was not a case that involved patient harm. Nonetheless, the seriousness of the conduct found proved was such that well-informed members of the public may have concerns about being treated by Dr Rrukaj. Although not directly a case of harm to the safety of patients, the Tribunal considered that any case involving a finding of sexual misconduct on the part of a doctor is in and of itself likely to adversely affect the health, safety and well-being of the public.

200. Having considered matters in the round, the Tribunal determined that the public expects doctors’ conduct to justify its trust in them and expects doctors to maintain respectful relationships with colleagues and treat them fairly. Where doctors fail to do so in a significant way, the public’s trust in the profession is undermined and a finding of impairment of fitness to practise is required. The Tribunal accepted that public confidence in the profession, and proper standards of professional conduct, would be damaged if a finding of impairment were not made in this case.

201. Therefore, the Tribunal determined that Dr Rrukaj’s fitness to practise is currently impaired by reason of misconduct in respect of limbs 1, 2 and 3 of the overarching objective, namely:

- a. to protect, promote and maintain the health, safety and well-being of the public;*
- b. to promote and maintain public confidence in the medical profession; and*
- c. to promote and maintain proper professional standards and conduct for members of that profession.’*

Determination on Sanction - 07/03/2025

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

The Evidence

203. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions on behalf of the GMC

204. Mr Birkby submitted that the appropriate sanction in this case was one of erasure. He submitted that when deciding whether to impose a sanction, the Tribunal must consider what sanction is required to meet the overarching objective. He reminded the Tribunal of the principles it should consider when determining what sanction, if any, to impose and referred it to the relevant paragraphs of the Sanction Guidance (February 2024) (‘SG’).

205. Mr Birkby submitted that the nature and seriousness of the findings against Dr Rrukaj are an important consideration, for the more serious the findings the more likely that a sanction is required, and the sanction needs to be sufficient to meet the overarching objective. He submitted that on the facts of this case, Dr Rrukaj sexually assaulted a junior colleague, and the SG recognises that sexual misconduct seriously undermines public trust in the profession and more serious action, such as erasure, is likely to be appropriate in such cases.

206. In respect of mitigating factors, Mr Birkby acknowledged that Dr Rrukaj was of previous good character and that there was positive evidence of his good clinical practice. He submitted however that in respect of aggravating factors, there was a persistent lack of insight on the part of Dr Rrukaj. Mr Birkby submitted that Dr Rrukaj had not shown any real indication that he understands the gravity of his actions or the impact they have had on Ms A or on public confidence in the profession. He said that the references advanced on Dr Rrukaj’s behalf were focused on the impact his actions have had on his own wellbeing and his career. Mr Birkby also submitted that Dr Rrukaj had demonstrated no evidence of remediation, such that there was a real risk of repetition. He reminded the Tribunal that Dr Rrukaj’s actions amounted to sexual misconduct, and as such were a serious departure from GMP.

207. Mr Birkby submitted that taking no action would be inappropriate. Given the seriousness of the misconduct, the absence of real insight or of remediation, there was a risk

of the conduct being repeated in future, whether in respect of another colleague or even a patient. Mr Birkby submitted that taking no action would substantially undermine public confidence and would not maintain proper professional standards and conduct.

208. Mr Birkby submitted that conditions would be inappropriate in the circumstances of this case. He said that this was not the type of case recognised by the SG as being appropriate for the imposition of conditions. He submitted that there were no shortcomings in the doctor's practice, and the misconduct was simply far too serious for the imposition of conditions.

209. Mr Birkby submitted that whilst it was accepted that suspension had a deterrent effect and could be used to send a signal to the doctor, the profession and the public about what is regarded as behaviour unbefitting a registered doctor, he submitted that it was not the appropriate sanction in this case. He invited the Tribunal to find that suspension was not appropriate because the misconduct was fundamentally incompatible with continued registration, and because Dr Rrukaj had not demonstrated any real insight or submitted evidence of remediation.

210. Mr Birkby submitted that erasure was the most appropriate sanction in order to meet the aims of the overarching objective. He referred the Tribunal to paragraph 109 of the SG which sets out factors which may be present indicating that erasure is the appropriate sanction. He submitted that there had been a particularly serious departure from the principles set out in Good Medical Practice, the behaviour was difficult to remediate, the misconduct amounted to sexual assault, there was a persistent lack of insight into the seriousness of the misconduct or its consequences, and there was a risk of repetition. Mr Birkby submitted that whilst it was recognised that a sanction of erasure will prevent Dr Rrukaj from working as a doctor, it was the minimum sanction required to meet the overarching objective.

Submissions on behalf of Dr Rrukaj

211. In determining the appropriate sanction, Mr McNerney invited the Tribunal to have the protection of the public as its *'lodestar'*. He said that what this came down to was the chance of repetition of the misconduct. He submitted that if the Tribunal was satisfied that there was a *'vanishingly small'* risk of repetition, a sanction less than erasure was appropriate.

212. Mr McNerney submitted that there was a very small risk of repetition, as the last three and a half years had demonstrated that there was no likelihood of this misconduct

happening again. He cited these proceedings, but also the bigger ‘*bulwark*’ against any repetition being Dr Rrukaj’s arrest by the police, for the first time in his life, being interviewed under caution and then having to face the threat of a criminal prosecution. Mr McNerney submitted that with this having been hanging over Dr Rrukaj, it provided the greatest assurance that he will not commit this misconduct again.

213. Mr McNerney submitted that this was a case in which one party said it happened and Dr Rrukaj said it did not, and accordingly it was difficult for Dr Rrukaj to offer much in the way of remediation. He invited the Tribunal to consider why insight and remediation were there, and submitted that they were there to ensure that the misconduct does not happen again, but invited the Tribunal to find that there was a small risk of repetition in any event. He submitted that the absence of insight and remediation itself should not point towards a heavy sanction, rather that the Tribunal should consider whether that misconduct was going to happen again.

214. Mr McNerney reminded the Tribunal that it had noted at Stage 2 that this was an unplanned series of events, out of character for Dr Rrukaj at a time when he was lonely and perhaps under the influence of alcohol, which he did not normally consume. He invited the Tribunal to consider this and how extremely unlikely it was that this behaviour would happen again. Mr McNerney also referred the Tribunal to its observation in respect of the testimonial evidence, which he said spoke to the repetition being unlikely. He reminded the Tribunal that these people have known Dr Rrukaj for many years, and they underline the fact this misconduct was out of character. Mr McNerney submitted that the risk to the public was therefore minimal.

215. Mr McNerney invited the Tribunal to find that an appropriate sanction would be the imposition of conditions on Dr Rrukaj’s registration. He submitted that Dr Rrukaj works in a male-only intensive care environment and that not erasing him would leave him in that environment, and that particular environment points away from a risk of repetition. Mr McNerney submitted that Dr Rrukaj worked in a small team where he could be easily observed and adds weight to the argument of that misconduct not being repeated in that particular workplace.

216. Mr McNerney submitted that the Tribunal’s primary task was to decide on the level of risk of the misconduct being repeated and that there was plenty of evidence to suggest that the risk in this case was very small. In relation to public confidence, Mr McNerney submitted that the public would probably collectively raise an eyebrow if the Tribunal were to erase Dr Rrukaj, since he has been allowed to work without restrictions and with no interim

suspension for three and a half years. On that basis, Mr McNerney submitted that it could not be said that the only sanction that protected the public was one of erasure.

The Relevant Legal Principles

217. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgement. In reaching its decision on sanction, the Tribunal had regard to the SG, reminding itself that it was guidance and could be departed from provided there was a good reason to do so. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it noted that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

218. Throughout its deliberations, the Tribunal had regard to the three limbs of the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promotion and maintenance of proper professional standards and conduct for members of the profession. It applied the principle of proportionality, balancing Dr Rrukaj's interests with the public interest.

The Tribunal's Determination on Sanction

219. The Tribunal first identified what it considered to be the aggravating and mitigating factors in this case.

Aggravating factors

220. The Tribunal considered that the conduct itself was an aggravating factor, this being a case of serious, sexually motivated, assault. The assaults occurred both in Dr Rrukaj's home, where Ms A felt trapped by reason of a locked door, and later in a public place. Although individually each incident may have been short-lived, collectively the events occurred over the course of several hours, escalating in seriousness during that time. The latter assault, near the walkway, occurred at a time when Ms A was trying to get away from Dr Rrukaj and at a time when she was intoxicated and, by virtue of this factor, vulnerable. It was Ms A's evidence that such was the nature of the assault to which she was subjected by Dr Rrukaj, she thought that she was going to be raped by him. The Tribunal considered it to be a particularly aggravating factor that Dr Rrukaj's conduct ended, not because he decided to leave Ms A alone, but because Ms A had sought help from Mr B. It was only the attendance of Mr B at the scene that enabled Ms A to part ways with Dr Rrukaj. Although the Tribunal

noted that these events did not occur in the workplace or involve patient harm, this was a series of assaults on a junior colleague undertaken by a more senior clinician. The Tribunal was satisfied that whilst the conduct was not premeditated and there was no abuse of position by Dr Rrukaj, there was an imbalance of power in that Ms A did not want to upset or anger him; initially so that matters did not become awkward at work, and later because she did not know what he would do if angry. The Tribunal considered that whilst this misconduct was not at the very upper end of the spectrum of sexual assaults, it was by no means at the lower end either. The Tribunal noted that any sexual misconduct is a serious matter which undermines public confidence in the profession and may be considered incompatible with continued registration.

221. The Tribunal considered the nature of Dr Rrukaj's defence, and acknowledged and accepted that Dr Rrukaj was entitled to defend himself from serious allegations, and that accordingly demonstrating remediation would be challenging. However, his defence went beyond a mere denial of the allegations, raising suggestions of jealousy on the part of Mr B, a conspiracy to entrap him, or of him being '*groomed*'. Although Dr Rrukaj himself stopped short of calling Ms A a liar, he accepted that she must have lied, to multiple parties, if his account were correct. The Tribunal also noted, for example, that it was part of Dr Rrukaj's case that when Ms A XXX, this meant the sexual assault could not have been true. It was suggested that if it had happened, it would have had a greater impact on her such that she would not have been able to go back to work at all.

222. The Tribunal noted that Dr Rrukaj had demonstrated a lack of insight into the proven facts. The Tribunal were struck by how the testimonial evidence actually went beyond a lack of insight and portrayed Dr Rrukaj as a victim. Indeed, 3 of the 6 testimonials speak to Dr Rrukaj being the victim of malicious and unfounded allegations. Such a suggestion can only have come from Dr Rrukaj himself, and demonstrates not only a lack of insight and remediation, but a willingness to blame others for his misconduct. In that regard the Tribunal reminded itself that Dr Rrukaj had made various assertions during the course of the proceedings, including suggestions that the allegations had been made against him as part of a conspiracy, or jealousy on the part of Mr B, or as part of an attempt to '*groom*' him. Moreover, the Tribunal noted that within his most recent appraisal, Dr Rrukaj appears to have informed this appraiser that the GMC investigation had come about as a result of his '*whistle-blowing*' patient safety concerns on the ward, a matter which was not raised in his written or oral evidence at the facts stage of these proceedings. That Dr Rrukaj appeared willing to give inaccurate accounts to his friends, colleagues and his appraiser as to the background to these allegations, was considered by the Tribunal to be a particularly aggravating factor.

223. In terms of reflection, the Tribunal considered that the majority of the evidence proffered by Dr Rrukaj spoke to how these events had affected him; his reflections were largely inward-looking. There was limited evidence of Dr Rrukaj having considered the impact his actions have had on Ms A, on Mr B, on the profession as a whole or on the wider public.

224. The Tribunal considered that there was a risk of repetition in this case, given that the underlying situation in which Dr Rrukaj found himself - that is, loneliness, XXX and a desire for company – had not changed.

Mitigating Factors

225. The Tribunal then went on to consider the mitigating factors in this case.

226. The Tribunal noted that this was not a pre-planned event. It accepted that this was a one-off, opportunistic event, conducted whilst Dr Rrukaj was perhaps under the influence of alcohol. The Tribunal noted the many positive testimonials it had seen, and accepted that this misconduct was out of character. It reminded itself that Dr Rrukaj is of previous good character with no previous regulatory findings against him that the Tribunal was aware of, which it considered a significant mitigating factor. Dr Rrukaj is an experienced clinician, who is well-regarded by both patients and colleagues. There is no doubt that he appears to be a good doctor, and the Tribunal noted that it is in the public interest to have good doctors. Dr Rrukaj has an otherwise unblemished career of approximately 30 years and there has been no repetition of misconduct since these events, some three and a half years ago. The Tribunal noted that Dr Rrukaj appears to have recognised and taken steps to address XXX, and has sought support by joining the Christian Medical Network for support.

227. As part of its analysis, the Tribunal rejected the following factors put forward by Mr McNerney on Dr Rrukaj's behalf in mitigation. Whilst the assault themselves were perhaps of short duration, there were several instances where assaults took place. No matter how short a sexual assault takes, it is still a sexual assault and so duration could not be considered in mitigation, particularly when the events had spanned a period of several hours. The Tribunal noted that these events did not occur in a clinical setting. However, it took the view that just because a doctor committed sexual misconduct in a social, non-working setting, that could not be considered mitigation, simply because it did not directly impact a patient or occurred outside of a clinical setting. The Tribunal did however accept that there was no evidence of a direct risk to patients by Dr Rrukaj's misconduct. Mr McNerney submitted that there was no coercion or threats in this case. Whilst it accepted there was no coercion, the Tribunal had

heard evidence from Ms A that she felt threatened, trapped and unable to escape Dr Rrukaj's company, and it did not therefore accept this factor in mitigation.

228. Taking this assessment into account, the Tribunal went on to consider each sanction in ascending order, starting with the least restrictive.

No action

229. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

230. The Tribunal was satisfied that there were no exceptional circumstances in Dr Rrukaj's case which could justify it taking no action. Further the Tribunal considered that concluding the case by taking no action would be insufficient to protect the public interest and would not mark the seriousness of Dr Rrukaj's actions.

Conditions

231. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Rrukaj's registration. It had regard to the SG, in particular paragraphs 81, 82 and 85:

"81 Conditions might be most appropriate in cases:

- a involving the doctor's health*
- b involving issues around the doctor's performance*
- c where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
- d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision."*

"82 Conditions are likely to be workable where:

- a the doctor has insight*
- b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*

- c the tribunal is satisfied the doctor will comply with them*
- d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.”*

“85 Conditions should be appropriate, proportionate, workable and measurable.”

232. The Tribunal considered that none of the factors, as set out in paragraph 81 of the SG and which indicated that conditions may be appropriate, were present in this case. In respect of paragraph 82 of the SG, the Tribunal considered that Dr Rrukaj had very rudimentary insight into his actions, there were no clinical concerns, and his misconduct was not in relation to his work as a doctor.

233. The Tribunal also bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. It was submitted by Mr McNerney that if conditional registration were imposed the Tribunal could put in place a restriction that Dr Rrukaj have a chaperone for any female patients he saw. The Tribunal considered that Dr Rrukaj currently worked in an all-male ward and that the concerns raised did not relate to any clinical concerns or in respect of his dealing with female patients. It considered that if there had been conditions on Dr Rrukaj’s registration at the time of these events, it would not have necessarily had any impact on his conduct as his misconduct occurred outside of a clinical environment. The Tribunal was therefore of the view that no workable or measurable conditions could be formulated which would address the seriousness of Dr Rrukaj’s misconduct.

234. In addition, the Tribunal considered that conditions would be insufficient to maintain public confidence in the profession and to promote and maintain proper standards of conduct. The sanction of conditions would not properly reflect the gravity of the misconduct.

Suspension

235. The Tribunal then went on to consider whether a period of suspension would adequately protect the public, maintain public confidence in the profession and uphold proper standards of conduct for its members. In considering whether to impose a period of suspension on Dr Rrukaj’s registration, the Tribunal had regard to paragraphs 91, 92, 93, 97(a), (f) and (g) of the SG which provide:

- “91 *Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*”
- “92 *Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*”
- “93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions ...*”
- “97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
- a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*
...
 - f No evidence of repetition of similar behaviour since incident.*
 - g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.”*

236. The Tribunal had regard to its findings that Dr Rrukaj had breached paragraphs 1, 36, 37 and 65 of GMP. The Tribunal considered that paragraph 97g of the SG was engaged only

insofar as the Tribunal considered Dr Rrukaj's insight to be at a rudimentary level, with no evidence of any remediation and that therefore there remained a risk of repetition.

237. The Tribunal reminded itself of the mitigating factors in this case as it has already set out, including that Dr Rrukaj is a man of previous good character, by all accounts a dedicated and conscientious clinician with a long and unblemished career, that the events before this Tribunal were a one-off event, and the misconduct was out of character and not premeditated.

238. The Tribunal then reminded itself however of the escalating nature of the misconduct and that Dr Rrukaj had provided several different reasons / explanations for his misconduct, including that the allegations were not true or had been made up by Ms A because she was intoxicated, that there was a conspiracy / set up by Ms A and/or Mr B, that he was being 'groomed', that the allegations were made because of the jealousy on the part of Mr B as Ms A had chosen to spend the evening with him over Mr B, that Ms A either misinterpreted or misunderstood Dr Rrukaj's actions, that there was not enough time for the alleged conduct to have happened. The Tribunal noted the paucity of evidence in support of the assertions, and had in any event rejected them.

239. The Tribunal also considered Dr Rrukaj's 2024 appraisal, where it was recorded that:

"How will you be able to demonstrate that your need has been addressed

As part of your appraisal next year to submit some written reflection on the impact of your involvement with the GMC process on you both personally and professionally. As these difficulties occurred within the context of you 'whistle blowing' regarding patient safety concerns on the ward you worked it is suggested your reflections

...

[XXX]

...

***Significant events, serious incidents and/or complaints since your last appraisal
Comments (Section cant_events)***

The significant event that Dr Rrukaj refers to occurred in 2021. It has led to a GMC referral which remains outstanding and a decision via tribunal is awaiting. Dr Rrukaj engaged very well today in full and open discussion about all of the complex context and details pertaining to this. I have captured the detail of this discussion in a separate letter to Dr Rrukaj, for potential inclusion in this appraisal subject to his and Dr Flynn's

review. Related to this difficulty Dr Rrukaj was involved in a grievance procedure with his former trust and the outcome apology letter from this is included as evidence here.”

240. The Tribunal noted that Dr Rrukaj informed his appraiser about these proceedings, but appears to have suggested to him that they had arisen in the context of whistle blowing. The Tribunal has seen no evidence in support of such an assertion, and it was not one of the explanations previously advanced by Dr Rrukaj, and so the Tribunal can only conclude that Dr Rrukaj is misrepresenting the true nature of events to his appraiser. The Tribunal also reminded itself that in his witness statement, which Dr Rrukaj confirmed at the start of his evidence was true to the best of his knowledge and belief, he said that:

“These are wild speculations by Mr B not confirmed by any evidence or testimony by Ms A at the time or during the subsequent police investigation. Indeed, it is his speculations and how his involvement unfolded that made me suspect and believe that it was an attempt to trap me into this incident. To illustrate this, like Mr [G] says, if someone accuses you of something you have not done, then the accuser might have done it or would have done it...”

... I started to suspect that she perhaps attempted to provoke me while this was part of the order she received when she was told to “do it now”. I heard it loud and clear when Ms A answered the telephone or social media call...”

241. In deflecting blame from himself, Dr Rrukaj told the police, his appraiser and three of the six individuals who provided testimonial evidence for him that there was a conspiracy or set/up against him or that this was all because of whistle blowing, albeit there being no evidence before the Tribunal to support this. Whilst the Tribunal did have regard to a letter from the Trust to Dr Rrukaj dated 12 April 2024 apologising for calling him ‘toxic’, the Tribunal concluded this did not amount to evidence of conspiracy or set up. Nor did it support the suggestion that Dr Rrukaj had been the victim of reprisals for whistle blowing.

242. The Tribunal also considered the escalating nature of Dr Rrukaj’s behaviour. The events on and near the walkway had occurred at a time when Ms A had become intoxicated, by whatever means and therefore more vulnerable, when she had told Dr Rrukaj that she wanted to leave, and when she was actively trying to get away from him. The only reason these events came to an end was because Ms A had messaged Mr B and asked him to “Call me and help” and two minutes later “Quick please”. It was *only* when Mr B arrived that the events ended and Ms A was finally able to leave Dr Rrukaj’s company. The Tribunal considered that it was not down to a decision from Rrukaj that these events ended; despite

having the opportunity to part ways with Ms A after he drove her back to XXX, Dr Rrukaj not only persisted in his behaviour but escalated it. It appears not to have occurred to him that he had crossed a line with a junior colleague whom he barely knew.

243. When considering these factors alongside Dr Rrukaj's deflection of blame from himself, the Tribunal formed the view that this demonstrated a flaw in Dr Rrukaj's character. The Tribunal considered that this lent weight to the Tribunal's concerns as to the risk of repetition, and demonstrated that Dr Rrukaj's conduct was fundamentally incompatible with being a doctor.

244. The Tribunal has already determined that all three limbs of the overarching objective were engaged in this case. It also had regard to paragraph 150 of the SG, which states:

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

245. The Tribunal considered whether a well-informed member of the public in the full knowledge of all the circumstances in this case, would consider public confidence in the profession to have been undermined if Dr Rrukaj were to receive a period of suspension for his conduct, or whether the ultimate sanction should be imposed.

246. The Tribunal grappled with whether a period of suspension would be the appropriate and proportionate response to Dr Rrukaj's conduct, or whether the conduct was so serious that erasure was the appropriate sanction. The Tribunal reminded itself that Dr Rrukaj was a good doctor, that the public needed good doctors, and debated whether these factors outweighed the seriousness of the misconduct which had been found proved.

247. The Tribunal determined however that Dr Rrukaj's misconduct was so serious that members of the public would be appalled to learn that a doctor who sexually assaulted a vulnerable colleague, albeit in a social environment, were to be allowed to remain on the medical register. This was particularly so where he had sought to blame others, to deflect from his own responsibility. The Tribunal determined that Dr Rrukaj's conduct was fundamentally incompatible with continued registration and that a period of suspension was not therefore the appropriate sanction in this case.

Erasure

248. Having determined that Dr Rrukaj's misconduct was fundamentally incompatible with continued registration, the Tribunal was satisfied that erasure was the only proportionate and appropriate response.

249. Noting that there was no evidence of direct patient harm in this case, the Tribunal determined that erasing Dr Rrukaj's name would send out a message to the profession and to the public that this type of misconduct was unacceptable for a member of the profession. In all the circumstances, the Tribunal concluded that Dr Rrukaj's interests were outweighed by the need to uphold all three limbs of the overarching objective, namely;

- a. to protect, promote and maintain the health, safety and well-being of the public;*
- b. to promote and maintain public confidence in the medical profession; and*
- c. to promote and maintain proper professional standards and conduct for members of that profession.'*

250. The Tribunal therefore determined to erase Dr Rrukaj's name from the medical register.

Determination on Immediate Order - 07/03/2025

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

Submissions

252. On behalf of the GMC, Mr Birkby submitted that it is in the interests of the public, and the protection and maintenance of confidence in the profession, and also the promotion and maintenance of proper professional standards of conduct, for an immediate order to be imposed. He submitted that to do otherwise would not be appropriate in the circumstances of this case. He highlighted the serious nature of the misconduct and that it would not be in the public interest for Dr Rrukaj to remain in unrestricted practice given the facts found proved and the Tribunal's determination at impairment and sanction. He submitted that there is no evidence before the Tribunal that Dr Rrukaj's employers need him to remain in practice, despite the sanction of erasure, to ensure patient care.

253. On behalf of Dr Rrukaj, Mr McNerney submitted that Dr Rrukaj’s employer is unaware that he may have to stop working as soon as this afternoon. He submitted that they were aware of the possibility of erasure happening, but not aware of its immediacy. He also submitted that Dr Rrukaj is currently on leave from work until 13 March 2025 and that if he is fit and well enough to return to work after the 13 March, he very much wants to finish off making sure that his current patient case load is given the best possible care. He submitted that when looking at the environment, it was a small ward with five sectioned male patients who were very ill and that Dr Rrukaj would like to provide continuity of care during the appeal period. He invited the Tribunal to allow Dr Rrukaj to work out those last three weeks with no serious risk of repetition of the misconduct.

The Tribunal’s Determination

254. The Tribunal has taken account of the relevant paragraphs of the SG, in particular paragraphs 172, 173, 176 and 178 as set out below:

“172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.”

“173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor’s special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.”

“176 In any event, the GMC also notifies the doctor’s employers or, in the case of general practitioners, the relevant body, of the date of the hearing. They have a duty to make sure that appropriate arrangements are in place for the care of the doctor’s patients should an immediate order be imposed.”

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

255. In reaching its determination, the Tribunal considered the submissions of Mr Birkby and Mr McNerney and the relevant paragraphs of the SG.

256. The Tribunal considered the submission of Mr McNerney regarding the difficulty Dr Rrukaj’s employers would find themselves in if Dr Rrukaj was immediately suspended and that the doctor’s patients would be disadvantaged. The Tribunal was mindful of paragraph 176 of the SG that Dr Rrukaj’s employer had a duty to put in place appropriate arrangements for this eventually. The Tribunal considered that there was no evidence before it to suggest that the imposition of an immediate order would create an insurmountable problem for his employers. In any case, Dr Rrukaj is on leave now until 13 March 2025, and that in all likelihood some measures would already have been put in place given his current period of leave.

257. The Tribunal concluded that it was necessary to impose an immediate order of suspension in this case given the seriousness of the misconduct it has found and its determination that erasure was the only appropriate and proportionate sanction in this case.

258. The Tribunal determined that public confidence in the profession would be undermined and that it would be failing to uphold the statutory overarching objective if an immediate order were not imposed in this case.

259. Accordingly, the Tribunal determined that an immediate order of suspension is necessary for the protection of the public and is otherwise in the public interest.

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

261. There is no interim order to revoke

262. That concludes this case.