PUBLIC RECORD

Dates: 01/07/2026 - 09/07/2026

Doctor:	Dr Hesham ELHAKIM
GMC reference number:	7554847
Primary medical qualification:	MB BCh 2014 Ain Shams University

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

Summary of outcome
Suspension 3 months

Tribunal:

Legally Qualified Chair	Mrs Sarah Hamilton
Lay Tribunal Member:	Mr Amit Jinabhai
Registrant Tribunal Member:	Dr Patricia Moultrie

Tribunal Clerk:	Laurence Millea

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr David Morris, Counsel, instructed by the name of the firm
GMC Representative:	Mr Terrence Rigby, 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.

Protecting the Public

Throughout the decision-making process the tribunal has borne in mind the statutory duty as set out in s1(1) of the Medical Act 1983 (the 1983 Act) to protect the public. The tribunal has considered the relevance and impact on each of the three distinct parts of public protection 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 – 06/07/2026

Background

1. The Tribunal exercised its powers under Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules), to sit in private when the matters under consideration or heard as evidence were confidential. This determination will be handed down in private but as this case concerns Dr Elhakim's alleged misconduct a redacted version will be published at the close of the hearing.

2. Dr Elhakim qualified as a doctor in 2014. At the time of the events, he was working as a Speciality Trainee 6 in General Surgery, Raigmore Hospital, Inverness.

3. The allegations that have led to Dr Elhakim's hearing relate to his conduct. It is alleged by the General Medical Council (GMC) that Dr Elhakim behaved in a sexually motivated way towards two colleagues, Dr A and Dr B. It is alleged that Dr Elhakim's actions were an abuse of his more senior position and constituted sexual harassment.

4. The initial concerns were raised with the GMC on 10 July 2024 via an online referral form from Dr D, Responsible Officer, NHS Education for Scotland (NES). The referral to the GMC was further to a local investigation which took place in late 2023 and early 2024.

The Outcome of Applications made during the Facts Stage

5. The Tribunal granted the GMC's application, made pursuant to Rules 35 and 36 of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), for Dr A and Dr B to be anonymised throughout proceedings and for them to be classed as vulnerable witnesses and for Dr Elhakim to have his camera switched off during their evidence. Mr Morris, on behalf of

Dr Elhakim, did not oppose the application and the Tribunal was satisfied that these measures would allow the witnesses to give their best evidence and that there were such provisions set out in Rules 35(4), 36(1)(e) and 36(3)(d). The Tribunal decided that this special measure would not cause any unfairness to Dr Elhakim.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Elhakim is as follows:

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

Dr A

1. On 2 December 2022 whilst sitting in the XXX Doctors' office at Raigmore Hospital:

a. you told Dr A that you would take her upstairs and find a room, or words to that effect;
To be determined

b. in response to Dr A asking for a speculum, you said that you did not realise she was into kinky things, or words to that effect.
To be determined

2. On 5 December you visited XXX flat and:

a. on one or more occasion Dr A asked you to leave;
To be determined

b. in response to Dr A asking you to leave, you told her that you did not want to leave until she accepted your apology, or words to that effect;
To be determined

c. Dr A asked you to leave the room while she delivered a presentation;
Admitted and found proved

d. you re-entered the room shortly after the presentation began;

Admitted and found proved

e. you sat on the sofa and stroked Dr A's lower leg, between her knee and her ankle, while she was presenting;
To be determined

f. you remained sat on the sofa whilst Dr A completed the presentation;
Admitted and found proved

g. you said to Dr A and Dr C 'if you're ever up for it, maybe the three of us?' or words to that effect.
Admitted and found proved

Dr B

3. On 20 January 2023, in the Doctors' office XXX at Raigmore Hospital you told Dr B that drunk women:

a. love you, or words to that effect;
To be determined

b. want to have sex with you, or words to that effect.
To be determined

4. Your actions as set out at paragraphs 1-3:

a. constituted sexual harassment as defined in Section 26(2) of the Equality Act 2010, in that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of Dr A and/or Dr B, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr A and/or Dr B;
Admitted and found proved in relation to 2(g), To be determined for remainder

b. were sexually motivated;
To be determined

c. were an abuse of your more senior position.

Admitted and found proved in relation to 2(g), To be determined for remainder

The Admitted Facts

7. At the outset of these proceedings, through his counsel, Mr Morris, Dr Elhakim made admissions to some sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Witness Evidence

8. The Tribunal received oral and documentary evidence on behalf of the GMC from the following witnesses:

- Dr A, XXX doctor (at the time of events), in person on 1 July 2026. Their witness statement was dated 8 May 2025;
- Dr B, XXX doctor (at the time of events), in person on 2 July 2026. Their witness statement was dated 14 April 2025;
- Dr E, Foundation Year 1 doctor (at the time of events), in person on 2 July 2026. Their witness statement was dated 2 May 2025.

9. Dr Elhakim provided his own witness statement, dated 1 May 2026 and also gave oral evidence at the hearing.

Documentary Evidence

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

- Online referral form dated 10 July 2024;
- NHS Scotland Workforce Policies Investigation Report, dated 11 June 2024, with supporting documents including meeting notes with Dr A, Dr B, Dr C and Dr E and witness statements from Dr A, Dr B and Dr E;
- Dr Elhakim's Work Details Form 6 August 2024;

- *Responding to fitness to practise concerns* form – NHS Highland 20 September 2024;
- WhatsApp message from Dr Elhakim to Dr A, dated 7 Dec 2022;
- WhatsApp message from Dr E to Dr A, dated 2 December 2022;
- WhatsApp messages of a group chat including Dr Elhakim, Dr A and Dr B, dated 4 December 2022 to 9 May 2023;
- Screenshots of WhatsApp messages between Dr Elhakim and Dr B, dated 27 and 28 February 2023 and 5 and 21 March 2023.

The Tribunal's Approach

11. In reaching its decision on the facts, the Tribunal will apply the civil standard of proof. This means that the Tribunal must decide whether, on the balance of probabilities, the GMC is able to prove it is more likely than not that the matters occurred as alleged. The burden of proof rests with the GMC and it is for the GMC to prove the case that it is presenting against the doctor. There is no burden on the doctor to prove or disprove anything.

12. The Tribunal will approach fact finding by firstly identifying agreed facts and evidence. To reach a decision on the disputed facts, the Tribunal will assess the evidence in the round. It will consider what conclusions and inferences can be drawn from the documentary evidence. The Tribunal will then consider the available oral evidence and subject that evidence to critical scrutiny against the agreed facts and documentary evidence to consider a witness' reliability and credibility. The Tribunal will not decide reliability and credibility based on the demeanour of a witness alone. It is open to Tribunals not to rule out the whole of a witness's evidence based on credibility, and the case of *Khan v The General Medical Council [2021] EWHC 374 (Admin)* confirms that credibility can be divisible.

13. The fact that Dr Elhakim has denied the allegation cannot be a factor to be held against him when assessing his evidence. The role of the Tribunal is to determine if the denial is supported or undermined by the evidence.

14. There is some hearsay evidence in this case, in the form of evidence from Dr C. *The Guidance for MPTS Tribunals (2025)* ('the Guidance') states that in relation to hearsay evidence, the Tribunal should adopt a careful balancing exercise when considering the impact and weight to attach to it, especially where it is key evidence for a particular allegation.

15. Sexual Harassment is defined at section 26(2) of the Equality Act 2010 which is

set out in the Allegation:

> *"that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment"*

16. The term 'sexually motivated' is defined in the case of *Basson v GMC [2018] EWHC 505 (Admin)* as: '*A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship*'. The Tribunal must be satisfied on the evidence that there was a specific intent. Sexually motivated conduct is not the same as carelessness, recklessness or negligence. It is important not to equate inappropriate conduct with sexually motivated conduct and the Tribunal should address the important question as to whether there could be any other explanation for inappropriate conduct. The key indispensable ingredient of motivation relates to the individual's state of mind and the state of a doctor's mind is not something that can be proved by direct observation, it can be proved only by inference or deduction from the surrounding evidence.

17. In terms of good character direction, Dr Elhakim is of good character, which is relevant in two ways. Firstly, he has given evidence and his good character is a positive feature which the Tribunal should take into account when considering whether it accepts what he has told it. Secondly, the Tribunal should consider whether his good character makes it less likely that he acted in the way that is alleged. What weight should be given to his good character and the extent to which it assists the Tribunal in its determination is a matter for the Tribunal to be considered in light of all the evidence before it. Character evidence of itself does not amount to a defence to any of the particulars of the Allegation.

The Tribunal's Analysis of the Evidence and Findings

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

Particular 1

19. The Tribunal considered the context and agreed facts of the conversation in relation to particular 1 of the Allegation. Dr A, Dr E and Dr C had had a discussion XXX around the game *"shag, marry, kill"* where they had to select which of their Registrars they would choose for each of the options, and Dr A had chosen Dr Elhakim to *"shag"*. In the XXX doctors' office

on 2 December 2022, this had been disclosed to Dr Elhakim, prior to Dr A arriving. Dr Elhakim accepts that when Dr A entered the office, he had told her *"thanks for choosing me"* or words to that effect.

20. The Tribunal considered that there was no objective or direct documentary evidence of this conversation, and therefore reached its determination by assessing the witness evidence. In doing so it noted that the Trust investigation occurred around a year after the events, which at the time of the hearing had occurred some three and a half years prior.

21. Dr Elhakim's account of the conversation is set out in his GMC witness statement as follows:

> *"I recall the conversation that took place in the office with Dr C and a male junior doctor [Dr E]. Dr C told me that she had been at [XXX] with Dr A and other junior colleagues and they had been playing the game, "kill, marry, shag", and both Dr C and Dr A named me in the "shag" category. I did not know the meaning of the word "shag" and had to ask what it meant. At that moment, Dr A opened the door to the office and the group laughed because of the timing of her entrance. She looked perplexed. I was embarrassed and said something along the lines of "thanks for choosing me" in an effort to make a joke about it.*
>
> *I did not make any comment to the effect that I would take Dr A upstairs and find a room. Dr A left the room shortly after I said, "thanks for choosing me".*
>
> *I have no recollection of Dr A asking for a speculum. It would have been odd for her to be looking for a speculum in the doctors' office [XXX], but I accept that she might have been looking for one. In any event, I did not make the comment referred to in 2 allegation 1(b). The word "kinky" is not a word that I would have used; I didn't know what it meant until this allegation was put to me during the Health Board's investigation."*

22. Dr A's account, as set out in her Trust investigation statement was that:

> *"On the 2nd December I entered the …doctor's office. In this office was [Dr Elhakim], Dr C and Dr E and they had been having a conversation about relationships, the conversation topic was explained to me after the following comments were made. When I entered the room [Dr Elhakim] looked at me suggestively, and made comments*

in a suggestive nature of wanting to take me upstairs to find a private room. I mentioned I was looking for a speculum and he made a comment about not realising I was into kinky things."

23. Dr E's account, as set out in his Trust investigation statement, was that he remembered thinking that Dr Elhakim had said something inappropriate but that he could not remember what that was or the specifics of the conversation. The Tribunal was provided a copy of a text sent to Dr A by Dr E at 22:07 on 2 December 2022 where he stated:

"Heyo, just wanted to check you're ok after that slightly strange conversation with Hesham [Dr Elhakim].

Some of those remarks were pretty off colour."

24. In his oral evidence Dr E confirmed that he could not recall the details, but that he felt that some of the comments were inappropriate and that reference to *"kinky"* triggered his memory a little.

25. Dr C's account, as set out in her Trust investigation statement was that Dr Elhakim had said *"thankyou"* to Dr A when she entered the room (in relation to her *"shag, marry, kill"* choice), that Dr A was looking for speculum and that Dr Elhakim had made a comment about that which made her feel uncomfortable.

26. The Tribunal considered that Dr Elhakim's account was broadly credible and consistent but had developed somewhat over time, potentially owing to him not wanting to discuss or disclose XXX at the time of the Trust investigation XXX. The Tribunal also noted that Dr Elhakim accepted having made some inappropriate comments, including 'joking' about a threesome or 'menage a trois' to Dr A, which it considered added to his credibility. The Tribunal also accepted that it was feasible that Dr Elhakim did not know what "*kinky"* meant, as English is not his first language, noting that he also stated that he was not familiar with the term *"shag"* when the topic was first brought up.

27. The Tribunal considered Dr A's evidence was largely credible and that she was giving an honest account of her recollection of events. The Tribunal did have some concerns about how the passage of time between the events and the time she gave her statement, as well as until this hearing, may have affected her recollection of the details. The Tribunal also

considered that there was evidence that Dr A did not approve of XXX, which may have affected her perception of him and the surrounding events.

28. The Tribunal considered that Dr E's evidence was of limited assistance as to the specifics of what occurred and Dr E acknowledged that he could not clearly remember, which the Tribunal considered added to his credibility. The WhatsApp message he sent to Dr A later that day was documentary contemporaneous evidence that he had felt concerned enough by the interaction and nature of the conversation of 2 December 2022 that he felt it necessary to check in with Dr A to see if she was ok, supporting his account that she had appeared uncomfortable and negatively affected by Dr Elhakim's comments.

29. The Tribunal also noted the hearsay evidence of Dr C in the form of her Trust investigation statement and meeting notes, which was untested as she did not provide a written GMC witness statement or attend to give evidence.

1(a)

30. The Tribunal considered that the only witness who recalled Dr Elhakim making such a statement, asking Dr A to go upstairs to a private room with him, was Dr A. Dr C and Dr E did not recall this and Dr Elhakim denied it.

31. The Tribunal considered the submission made on behalf of Dr Elhakim that he would not have made such a comment in a professional setting in front of other colleagues, and that if he had this would not have gone unnoticed.

32. In light of the absence or corroboratory evidence, Dr Elhakim's denial and the likelihood that such a comment would not have gone unnoticed, the Tribunal determined that the GMC had not adduced sufficient evidence for it to determine that, on the balance of probabilities, Dr Elhakim had said this.

33. Accordingly, the Tribunal found particular 1(a) of the Allegation not proved.

1(b)

34. In respect of paragraph 1(b), the Tribunal considered that in addition to the account of Dr A, there was some supporting evidence from Dr C and Dr E. Whilst Dr E could not recall the specifics, he had stated during the Trust investigation that the word *"kinky"*

brought it back to his memory and that was possibly the remark that he thought was inappropriate and why he messaged Dr A later that evening.

35. The Tribunal also had regard to the account of Dr C, and whilst this was hearsay evidence and was attributed less weight as such, it was evidence that Dr A had felt uncomfortable by what Dr Elhakim had said, and that he had made a comment in relation to Dr A looking for a speculum.

36. The Tribunal also considered that Dr Elhakim making such a comment in front of colleagues, in the context of the *"shag, marry, kill"* game conversation which was taking place was plausible.

37. Accordingly, the Tribunal found particular 1(b) of the Allegation proved.

Particular 2

38. In relation to the events of 5 December 2022, Dr Elhakim sets out in his written GMC witness statement that:

> *"I recall that on 5 December 2022 I went to the flat with Dr C at her invitation. At this time, [XXX].*
>
> *I sat at the end of the couch at Dr A's feet when she was presenting. I did not stroke her leg. Dr A was sitting with her legs stretched out across the couch. I recall that Dr A was wearing long socks and that she had a blanket over her legs and a laptop computer on her lap. I remember that she had a blanket over her legs because it was cold outside and there was no heating on in the flat. Given the passage of time, I cannot recall making any physical contact with Dr A. At the time, I would not have wanted it to be known to any colleagues that I was at the flat and therefore would not have wanted to do anything to draw attention to myself.*
>
> *I have no recollection of Dr A asking me to leave the flat.*
>
> *I accept that, as she was presenting, Dr A probably said that if Dr C and I wanted to talk we should leave the room. I can remember that Dr C and I went to the hallway to speak at the start of the presentation and then came*

back into the living room at some point during the presentation.

I accept that I made the inappropriate remark as outlined in allegation 2(g). I knew that Dr A considered that I had become too close to Dr C. It was a badly misjudged attempt to lighten the mood. It came to mind as Dr C had said that both she and Dr A had chosen to shag me during the game they had been playing [XXX] Dr C had been talking about on 2 December. I apologised to Dr A in a text message soon after."

39. During his oral evidence, Dr Elhakim stated that Dr C had told Dr A about XXX and that he did not want Dr A to know and so wanted to speak with her to clarify this. He stated that he was not seeking to apologise so much as explain the situation and that if she heard the story about what had happened between him and Dr C she might think less of him and that they had a lot of mutual respect and he did not want this to happen. Also, Dr A was [XXX] and he did not want this to be the last image of him to her.

40. Dr A briefly reiterated her account in her GMC witness statement, stating that *"Dr Elhakim stroked my leg while I was delivering an online presentation and later made an inappropriate comment about myself and Dr C"*.

41. Her earlier Trust investigation statement goes into more detail stating that:

"On the 5th December I was at home, [XXX]. [Dr Elhakim] came to my flat with [Dr C]. I had been informed by [Dr C] over the weekend that [XXX]. I had expressed disproval [XXX], so he had come to apologise.

When he arrived at the flat I asked him to leave several times, but he refused to leave until I accepted his apology. I had a presentation to give [XXX], and asked again for him to leave before I started presenting. He stayed and sat at the end of my couch that I was sitting on while I gave the presentation, he then started stroking my leg while I was presenting. As I was presenting, I felt unable to ask him to stop.

At the end of the presentation he made a comment suggesting a threesome between myself and [Dr C]."

42. In her GMC witness statement, Dr A confirmed that Dr Elhakim did not stroke her inner thigh, but her lower leg between the ankle and the knee, and that she thought this was her left leg but could not be certain due to the passage of time since the incident.

43. In her account provided to the Trust investigation, Dr C stated of the events of 5 December 2022 that:

> *"He touched her inappropriately [XXX] in the January. We'd had quite a lot of chats about what he did to her. She was really upset. One time I brought up with Hesham that I thought what he had done to [Dr A] was sexual harassment. I told him "you can't treat people in that way, [Dr A] and I are not the same person, I'm giving you consent, [Dr A] isn't."*
>
> *He was very upset. Less at me and more at me suggesting that it was sexual harassment, and at me telling him that I didn't know what his intentions were but it wasn't an appropriate way to treat anyone. He'd said previously that me and [Dr A] were similar. I'd said that we are not the same person; he didn't seem to understand where I was coming from. He was very upset and asked me to drive him back to [XXX]s. I dropped him off and he went home."*

44. Dr C went on to state that Dr Elhakim appeared genuinely upset at the suggestion that this was sexual harassment and was crying. She went on to elaborate that:

> *"He'd come [XXX] to apologise to [Dr A], she was giving a presentation [XXX] and her mic and camera were on. I saw [Dr Elhakim] stroking the inside of her lower leg. I didn't think much, I thought that he was comforting her, but on speaking to [Dr A] she didn't think it was appropriate, her mic and camera were on so she couldn't ask him to stop. I acknowledged to [Dr A] straight after that it had been inappropriate and we spoke for weeks about it. [Dr A] was traumatised: her parents were encouraging her to report it.*
>
> *…*
>
> *He asked if he could come and apologise to [Dr A] and I said no. He asked again and I said fine. I messaged [Dr A] to let her know we were coming and as soon as we arrived she asked him to leave. I took him into the hall and suggested he should leave and that I couldn't see what he was trying to achieve. He said no, no that he*

wanted o to apologise. I said OK, fine, stay until the end of the presentation and then go."

2(a) & (b)

45. The Tribunal considered that it had heard evidence from Dr Elhakim that he wanted to apologise to Dr A or explain the situation to her and accepted that this was the reason why he went to XXX flat.

46. The Tribunal considered that Dr A and Dr C had first recounted these events in the Trust interviews and statements, and that their accounts corroborated each other that Dr Elhakin was asked to leave but refused to do so. Whilst Dr C's evidence was hearsay, the Tribunal attributed it some weight, particularly given the consistency between the accounts of Dr C and Dr A.

47. On this basis the Tribunal determined that on the balance of probabilities, Dr Elhakim had been asked to leave but had refused to do so until Dr A accepted his apology, or words to that effect.

48. Accordingly, the Tribunal found particulars 2(a) and 2(b) of the Allegation proved.

2(e)

49. The Tribunal then went on to consider whether Dr Elhakim had sat on the sofa and stroked Dr A's lower leg, between her knee and her ankle, while she was presenting.

50. As well as the account set out above, the Tribunal also considered the submissions made on behalf of Dr Elhakim that it was unlikely and not plausible that Dr Elhakim would stroke Dr A's leg while she delivered a presentation XXX. Dr Elhakim did not want any staff members to know that he was at the flat, as he did not want anyone knowing about XXX. The Tribunal noted that Dr Elhakim acknowledged that he may have inadvertently touched Dr A's leg at some point, but denied stroking her leg in any way.

51. The Tribunal also considered that Dr A did not claim that there had been any skin-on-skin contact, and noted that she was unable to recall which leg was touched, whether her legs were bare or if she was wearing clothes on her lower legs or covered by a blanket.

52. The Tribunal was of the opinion that Dr A's evidence and recollection were unclear about specific details and whilst it was corroborated by the evidence of Dr C, this evidence was untested hearsay evidence to which the Tribunal could attach limited weight.

53. The Tribunal determined that overall, the GMC had failed to demonstrate to the necessary standard that Dr Elhakim had acted in the way alleged. It was also persuaded by Mr Morris' submission regarding the unlikelihood of Dr Elhakim behaving in such a brazen and risky manner in the circumstances, particularly as he did not want people to know about XXX and that he had gone to XXX flat to attempt to explain and calm the situation with Dr A.

54. Accordingly, the Tribunal found paragraph 2(e) of the Allegation not proved.

Particular 3

55. In his written GMC witness statement Dr Elhakim states of the events referred to at particular 3:

> *"I accept that I may have made a comment about drunk women finding me attractive which was intended to be self-deprecating. I am clear that I would not have said that drunk women want to have sex with me, or words to that effect."*

56. Dr B's account was that she had a conversation with Dr Elhakim in the doctors' office during the night shift, during which he made some inappropriate comments. Her evidence was that she had not reported these inappropriate comments as she did not think that her concerns were serious enough to warrant escalation and believed it was an isolated incident until subsequent conversations with Dr A, which informed her decision to report it.

57. In her Trust investigation statement she described the event:

> *"During a nightshift with [Dr Elhakim], we were having an informal chat and [Dr Elhakim] brought up his Christmas night out. He went on to say that 'drunk girls love him' and 'want to have sex with him'. This conversation took an uncomfortable turn with an inappropriate tone. I do not think I responded and politely exited the room as I did not want the conversation to continue."*

58. In his oral evidence, Dr Elhakim elaborated on the context of his comments, stating that he had been speaking to one of his consultants who told him that they would not feel

comfortable going to the work's Christmas party as at the last party a nurse, who appeared to be drunk, was dancing with him and it was very inappropriate. Dr Elhakim stated that the exact same thing happened to him at the next Christmas party when one of the nurses was dancing with him and it was in the presence of a lot of the consultants and other colleagues, and it was very awkward for him. He stated that in the back of his mind he had the idea that Dr B had probably been told about this, and he was trying to explain himself and the context to her, in a self-deprecating way.

3(a)

59. In respect of particular 3(a) the Tribunal considered that given Dr Elhakim accepted the allegation both in his written statement and during his oral evidence, this particular was made out and found 3(a) proved.

3(b)

60. In respect of particular 3(b), the Tribunal considered that the only evidence was the contrasting accounts of Dr Elhakim and Dr B, as there was no documentary or corroboratory evidence. The Tribunal therefore considered the reliability and credibility of Dr Elhakim and Dr B in reaching its determination.

61. The Tribunal was of the opinion that both Dr Elhakim and Dr B were attempting to give an honest account of events which occurred some three and a half years earlier. Dr Elhakim provided a general account of why he had brought the topic up and made reference to drunk women finding him attractive. He maintained that he would not have, and did not say that they want to have sex with him, or words to that effect. The Tribunal found his explanation of that context credible.

62. Dr B also maintained her original account of events, set out in her original Trust statement that:

> *"The conversation about the night out was OK, but the more he continued to talk about it, and because I knew that he didn't drink, and he then he hit out with "drunk girls love him' and 'want to have sex with him." It didn't fit with the conversation; it didn't take a nice turn.*
>
> …

I think because of my background knowledge about what had gone on with [Dr B] and [Dr A], I felt that it was a suggestive comment; I felt discomfort at the innuendo."

63. In her witness statement Dr B only made reference to the *"drunk girls loving him"* comment but referred to her Trust investigation evidence. During her oral evidence, Dr B acknowledged that during a night shift her brain may not have been as clear as it would be during the daytime, but emphasised that this was quite a standout conversation. She also acknowledged that she could not remember specific details and referred to her earlier, more contemporaneous statement. Additionally, she accepted that her perception of Dr Elhakim was impacted by her knowledge and disapproval of XXX, and later her knowledge of Dr A's complaints about Dr Elhakim's behaviour.

64. The Tribunal considered that these concessions by Dr B added to her credibility and it concluded that her account was honest, and not embellished or vexatious.

65. The Tribunal had also heard evidence and submissions about text exchanges between Dr Elhakim and Dr B, and their interactions following this conversation. However, the Tribunal did not attach any significant weight to these: the text exchanges appeared friendly and professional and there were reasonable explanations as to why Dr B continued to interact with Dr Elhakim professionally in the way described following the alleged incident in January 2023.

66. Ultimately, the Tribunal reached its determination on the basis of the witness evidence. It concluded that whilst Dr B was a credible witness, her account of events had been affected by her perception of Dr Elhakim, XXX with Dr C and the allegations by Dr A. In the absence of any further evidence and in light of Dr Elhakim's continued and persuasive denial, the Tribunal determined that the GMC had failed to prove the allegation to the required threshold and favoured Dr Elhakim's account of events.

67. Accordingly, the Tribunal found particular 3(b) of the Allegation not proved.

Particular 4

4(a)

68. In respect of particular 1(b), the Tribunal had heard evidence that in addition to the discussion of the *"shag, marry, kill"* game and her selection to *"shag"* Dr Elhakim, the comment made by Dr Elhakim in relation to the speculum had upset and caused distress to Dr A.

69. The comment made by Dr Elhakim was sexual in nature and the Tribunal was satisfied that there was sufficient evidence that it did have the effect of violating the dignity of Dr A and creating a degrading, humiliating or offensive environment for her.

70. The Tribunal therefore found paragraph 4(a) proved in relation to particular 1(b).

71. In respect of particulars 2(a), (b), (c), (d) and (f) the Tribunal considered that these were not sexual in nature and therefore not capable of amounting to sexual harassment.

72. Accordingly, the Tribunal found particular 4(a) not proved in relation to particulars 2(a), (b), (c), (d) and (f).

73. In respect of particular 3(a), the Tribunal considered that whilst Dr Elhakim may have been referencing what had happened at a previous Christmas party, where a drunk nurse had danced with him, the comment by Dr Elhakim was broadly of a sexual nature. However, the Tribunal did not hear evidence that this had distressed or humiliated Dr B who had stated that what Dr Elhakim had said was inappropriate and made her feel uncomfortable, but not that she had been offended. Therefore, the Tribunal determined that Dr Elhakim's action did not amount to sexual harassment.

74. Accordingly, the Tribunal found particular 4(a) not proved in relation to particular 3(a).

<u>4(b)</u>

75. In respect of particular 1(b), the Tribunal considered that the comment about the speculum was lewd and suggestive, and was broaching the subject of Dr A's sexual preferences. The evidence of Dr Elhakim was that he did not find Dr A attractive and was not pursuing any kind of sexual relationship with her. His evidence was that he had no recollection of Dr A asking for a speculum and in any event did not make such a comment.

76. The Tribunal considered whether there was any other explanation or motive for such a comment, and noted that the interaction occurred within the context of a conversation about the game of *"shag, marry, kill"* and Dr Elhakim saying to Dr A *"thanks for choosing me",* as he stated, *"in an effort to make a joke about it."*

77. The Tribunal was of the opinion that in the context of the conversation, which occurred in a room of three other people who had been discussing the game of *"shag, marry, kill",* and following Dr Elhakim's comment *"thanks for choosing me",* it was entirely plausible that this was simply a crass attempt at humour on Dr Elhakim's part without any sexual motivation.

78. The Tribunal was provided with no compelling evidence that Dr Elhakim made the comment either in the pursuit of sexual gratification or in pursuit of a sexual relationship with Dr A.

79. The Tribunal therefore found particular 4(b) not proved in relation to particular 1(b).

80. In respect of particulars 2(a), (b), (c), (d) and (f) the Tribunal reminded itself of its above finding that these actions by Dr Elhakim were not in themselves sexual in nature.

81. The Tribunal considered that in respect of particular 2(g) where Dr Elhakim said *'if you're ever up for it, maybe the three of us?*' or words to that effect, this was clearly sexual in nature. The Tribunal noted that the events at particulars 2(a), (b), (c), (d), (f) and (g) occurred in the context of Dr Elhakim going with Dr C XXX in order to apologise to Dr A, XXX.

82. The Tribunal considered Dr Elhakim's evidence that he was not attracted to Dr A or seeking a relationship with her, and the evidence, including that of Dr A and Dr C, that he was refusing to leave until Dr A accepted his apology. It appeared to the Tribunal that Dr Elhakim was genuinely concerned about Dr A's opinion of him and XXX. It was clear from the text messages produced that Dr Elhakim thought highly of Dr A. The Tribunal accepted his evidence that this comment was an ill-judged and inappropriate attempt at humour.

83. In this context, the Tribunal could identify no compelling evidence that Dr Elhakim was seeking either sexual gratification or making a genuine attempt to pursue a sexual relationship with Dr A.

84. Accordingly, the Tribunal found particular 4(c) not proved in relation to particulars 2(a), (b), (c), (d, (f) and (g).

85. In respect of particular 3(a), the Tribunal considered that this comment, whilst also ill-judged and inappropriate, was in relation to why a drunk colleague had danced with Dr Elhakim at a work Christmas party and was his attempt to explain and contextualise it in case Dr B had been made aware of it. The Tribunal considered that there was no evidence that this comment was either in pursuit of sexual gratification or in an attempt to pursue a sexual relationship with Dr B.

86. Accordingly, the Tribunal found paragraph 4(b) not proved in relation to particular 3(a).

4(c)

87. The Tribunal considered that it had not been provided with any compelling evidence that Dr Elhakim had abused his more senior position in relation to the outstanding paragraphs of the Allegation which it had found proved. The evidence it had received was that Dr Elhakim was more senior than Dr A and Dr B but that he was not their line manager or directly responsible for assessing them, and so whilst he was senior to them, his seniority and responsibility over them was somewhat limited.

88. In respect of particular 1(b), the Tribunal was of the opinion that Dr Elhakim's seniority was not a relevant factor as it occurred in the context of a conversation between multiple colleagues about the game of "*shag, marry, kill"* which had occurred between some junior colleagues and then been discussed with other colleagues, including Dr Elhakim.

89. Whilst the Tribunal accepted that Dr Elhakim's comment was nonetheless inappropriate, it concluded that there was no clear evidence that his seniority played any significant role or that he abused his more senior position. It therefore found particular 4(c) not proved in relation to particular 1(b).

90. In respect of particulars 2(a), (b), (c), (d) and (f) the Tribunal considered that the events occurred within the context of Dr Elhakim being more senior but that his seniority was not specifically relevant to the situation, or his actions as found proved. He had gone to XXX with Dr C to apologise to Dr A XXX, and there was no evidence that his seniority played an applicable role, nor that he abused it.

91. Accordingly, the Tribunal found particular 4(c) not proved in relation to particulars 2(a), (b), (c), (d) and (f).

92. In respect of particular 3(a), the Tribunal also concluded that in saying that *"drunk women loved me*" or words to that effect, Dr Elhakim was not abusing his more senior position, noting that the comment, whilst inappropriate, was in relation to Dr Elhakim's explanation to Dr B as to why he had been seen dancing with a drunk female colleague at a previous Christmas party.

93. Accordingly, the Tribunal found particular 4(c) not proved in relation to particular 3(a).

The Tribunal's Overall Determination on the Facts

94. The Tribunal has determined the facts as follows:

Dr A

1. On 2 December 2022 whilst sitting in the XXX Doctors' office at Raigmore Hospital:

a. you told Dr A that you would take her upstairs and find a room, or words to that effect;
Not proved

b. in response to Dr A asking for a speculum, you said that you did not realise she was into kinky things, or words to that effect.
Determined and found proved

2. On 5 December you visited XXX flat and:

a. on one or more occasion Dr A asked you to leave;
Determined and found proved

b. in response to Dr A asking you to leave, you told her that you did not want to leave until she accepted your apology, or words to that effect;

Determined and found proved

c. Dr A asked you to leave the room while she delivered a presentation;
Admitted and found proved

d. you re-entered the room shortly after the presentation began;
Admitted and found proved

e. you sat on the sofa and stroked Dr A's lower leg, between her knee and her ankle, while she was presenting;
Not proved

f. you remained sat on the sofa whilst Dr A completed the presentation;
Admitted and found proved

g. you said to Dr A and Dr C 'if you're ever up for it, maybe the three of us?' or words to that effect.
Admitted and found proved

Dr B

3. On 20 January 2023, in the Doctors' office XXX at Raigmore Hospital you told Dr B that drunk women:

a. love you, or words to that effect;
Determined and found proved

b. want to have sex with you, or words to that effect.
Not proved

4. Your actions as set out at paragraphs 1-3:

a. constituted sexual harassment as defined in Section 26(2) of the Equality Act 2010, in that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of Dr A and/or Dr B, or

creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr A and/or Dr B;
Admitted and found proved in relation to 2(g), Determined and found proved in relation 1(b), Not proved in relation to 2(a), (b), (c), (d), (f) and 3(a)

b. were sexually motivated;
Not proved

c. were an abuse of your more senior position.
Admitted and found proved in relation to 2(g), Not proved for remainder

Determination on Impairment - 08/07/2026

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

The evidence

2. The Tribunal has reviewed its findings of fact and in addition, the Tribunal received further evidence as follows.

3. Dr Elhakim gave oral evidence at this stage of proceedings.

4. The Tribunal also received in support of Dr Elhakim a number of testimonials from colleagues, all of which it has read.

5. The Tribunal also received documentary evidence, which included but was not limited to:

- Dr Elhakim's CV;
- Updated written reflections from Dr Elhakim following the finding of facts;
- Multi-Source Feedback for Dr Elhakim;
- Appraisal May 2025;
- CPD Certificates;
- Learning and reflections.

Submissions

Submissions on behalf of the GMC

6. Mr Rigby, Counsel, submitted that whilst it might be suggested that the findings against Dr Elhakim fall at the lower end of the spectrum of seriousness, it was the GMC's position that such conduct is always serious and arguably at the higher end of seriousness, not least because it was found to amount to sexual harassment and because of the effect this had on Dr A. He submitted that in light of its findings, it would be inappropriate for the Tribunal to do anything other than find impairment.

7. Mr Rigby submitted that in terms of seriousness, the *Guidance for MPTS tribunals (2025)* ('the Guidance') states that allegations that are likely to fall at the higher end of the spectrum of seriousness include sexual harassment, which the Tribunal found on not one but two occasions. Mr Rigby submitted that Dr Elhakim's misconduct was aggravated by the imbalance of power in the general sense and whilst it may not have been part of the motivation or the desire of Dr Elhakim to exercise that imbalance of power, there was one, which meant Dr A would be less likely, as indeed she was, to complain about what happened.

8. Mr Rigby submitted that it was not disputed that Dr Elhakim was abusing his more senior position in relation to particular 2(g) of the Allegation. He submitted that Dr Elhakim's interaction with Dr B was found to have had a sexual aspect to what happened, which occurred in the middle of the night on a night shift with nobody else present. He submitted that this was also misconduct in the full sense and shows that in spite of the text Dr Elhakim sent to apologise to Dr A on 7 December 2022, he really had not learned about how he should treat younger, particularly female colleagues with whom he was working, demonstrating that he had no insight at all.

9. Mr Rigby submitted that the abuse of Dr Elhakim's position and the finding of multiple counts of sexual harassment, taken with the aggravating factors identified, therefore place the misconduct at the higher end of the spectrum of seriousness.

10. Mr Rigby submitted that in relation to Dr Elhakim's response to the events, it is true that on 7 December 2022 he did in fact give a 'sort' of apology to Dr A via text, although according to him at that point he was not thinking that he really needed to apologise for what he had done, except in the rather muted way of suggesting he 'crossed lines'. Mr Rigby submitted that Dr Elhakim did not at that stage have in his mind that by behaving in that sexualised manner, by harassing Dr A, that this is what he did and that he needed to do

something about his behaviour. He submitted that Dr Elhakim's suggestion during his oral evidence that he persisted with his attempts to speak to Dr A to make a full apology was the first time this had been mentioned and that there was no evidence to back up this assertion.

11. Mr Rigby submitted that sexual harassment is not something which is easy to remediate in any way and it could be concluded that it is not remediable in this case. He submitted that Dr Elhakim has not committed any similar misconduct since the events and whilst this has demonstrated that he can avoid doing the sort of things that he did in 2022 and 2023, it does not demonstrate whether he has remediated, in any real sense, the risk to public protection.

12. Mr Rigby submitted that the testimonials, which speak very highly of Dr Elhakim, are in principle not really relevant at this stage of proceedings and will become relevant at the sanction stage if reached.

13. Mr Rigby submitted that the Guidance sets out that even a single incident of sexual misconduct can have a significant harmful impact and pose a high level of risk to public protection. It states that most allegations relating to sexual misconduct have a starting point of a high level of seriousness and therefore fall at the higher end of the spectrum of seriousness. This means the starting point for assessing current and ongoing risk to public protection will usually be high. He submitted that the assessed risk to public protection should remain high in light of the relevant factors and that a finding of impairment was necessary to uphold the second and third limbs of public protection, namely to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

Submissions on behalf of Dr Elhakim

14. Mr Morris, Counsel, submitted that Dr Elhakim accepts that there had been a serious departure from professional standards in relation to the two instances of sexual harassment of Dr A and accepted that there was statutory misconduct.

15. Mr Morris submitted that the Tribunal found that there was an absence of intention in relation to its findings and found it plausible that Dr Elhakim's comments were simply crass attempts at humour. He reminded the Tribunal that it had not found any sexual motivation. He submitted that the Tribunal has therefore accepted the basis of Dr Elhakim's admission

that the harassment was the effect of his comment, but not its purpose. He submitted that this makes a significant difference to the culpability of that harassment.

16. Mr Morris submitted that in relation to the comment made by Dr Elhakim to Dr B, while broadly sexual, it did not distress, humiliate or offend Dr B and therefore did not amount to sexual harassment. He submitted that Dr Elhakim would accept that it was an uninvited and unwelcome comment, and that the Tribunal found that that it made her uncomfortable, but that this does not amount to sexual misconduct, which the Guidance states *"offends, embarrasses, harms, humiliates or intimidates an individual."* He submitted that this did not amount to a serious departure from the professional standards set out in *Good medical practice (2013)* ('GMP') and did not establish statutory misconduct.

17. Mr Morris submitted that the other proven facts relate to behaviour which could be classed as disrespectful and might be said to amount to misconduct but cannot be said to amount to statutory misconduct and should not be accumulated to establish serious misconduct.

18. Mr Morris submitted that whilst the harassment was repeated once, occurring on 2 December 2022 and 5 December 2022, it was neither premeditated nor predatory. He said that the Tribunal had found at the facts stage that the difference in seniority between Dr Elhakim and Dr A and Dr B in this case was not material. He submitted that given the Tribunal's findings it should attach no culpability to Dr Elhakim's admission of an abuse of power in relation to the *"threesome"* comment he made to Dr A, which was found to be a crass joke that was not sexually motivated.

19. Mr Morris submitted that in considering seriousness, the conduct did not take place while the doctors were engaged in clinical work, did not put patient safety at risk and did not risk a breakdown in communication and or in the collaborative working needed to deliver safe patient care. He submitted that the harassment did not affect Dr A in terms of her ability to practise and that there is no evidence of any psychiatric harm that she has suffered, and she did not feel it necessary to access any support.

20. Mr Morris submitted that in light of all these circumstances, this is an unusual case and these two incidents of sexual harassment lie at the mid-range of the spectrum of seriousness and therefore the starting point for assessing the risk of current and ongoing risk to public protection was medium.

21. Mr Morris submitted that in terms of context, there was nothing that points either way in terms of reducing or increasing the seriousness.

22. Mr Morris submitted that unequivocally Dr Elhakim understands what happened and accepts how he could have acted differently. He submitted that Dr Elhakim apologised to Dr A by text message. The Tribunal should take into account the fact that Dr Elhakim was told that this was something Dr A did not wish to discuss with him further and that she did not want to see him further, except in a professional context, which thwarted his desire to make that apology personally.

23. Mr Morris submitted that the Tribunal had been provided with evidence demonstrating Dr Elhakim's insight from the time of the Trust investigation to the current day, and which fulfils the requirements for demonstrating insight as set out in the Guidance. He submitted that Dr Elhakim has undertaken relevant CPD and that there is evidence of good practice in a similar environment to where the allegation arose with no evidence of any such behaviour, all demonstrating a reduced likelihood of repetition, and that the testimonials provided on Dr Elhakim's behalf are relevant in this respect.

24. Mr Morris submitted that this is not a case where Dr Elhakim has displayed any deep-seated attitudinal issues or beliefs and that the insight and remediation are relevant factors as the behaviour in this case falls into the mid-range of seriousness.

25. Mr Morris submitted that Dr Elhakim does not dispute that this is a case where there has to be a finding of impairment, notwithstanding any findings the Tribunal makes into the success of his insight and remediation of these concerns. He submitted that the second and third limbs of public protection are engaged but that patient safety is not a concern in this case and so the first limb does not apply.

26. He submitted that the Guidance states that *"The level of risk associated with a sexual misconduct allegation will generally be medium or high"* and that considering the context and response of Dr Elhakim, the seriousness and current and ongoing risk to public protection remain at the mid-range.

The relevant legal principles

27. There is no burden or standard of proof at this stage of the proceedings and the decision of impairment is a matter for the Tribunal's judgment alone. The Tribunal will only

make a finding of impairment where there is a legal basis for doing so and where a decision is reached that the doctor poses a current and ongoing risk to one or more of the three parts of public protection which is likely to require restrictive action in response. The three parts of public protection are to protect, promote and maintain the health, safety and well-being of the public; to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

28. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious, and then whether the finding of that misconduct which was serious, poses a current and ongoing risk to public protection requiring restrictive action in response and therefore could lead to a finding of impairment.

29. In the case of *Cheatle v GMC [2009] EWHC 645 (Admin)* it was said that this misconduct must be serious rather than mere misconduct and *Roylance v General Medical Council [2000] (No. 2) 1 AC 311* said that the decision in every case as to whether the misconduct is serious, has to be made by the Tribunal in the exercise of its own skilled judgement on the facts and circumstances in light of the evidence.

30. The case of *Schodlock v General Medical Council [2015] EWCA Civ 769* was referred to in relation to cumulative misconduct. That case highlighted that a series of non-serious misconduct acts would not automatically escalate to serious misconduct, but the Court of Appeal did acknowledge that it is possible in principle for non-serious findings to accumulate to serious misconduct, but this would require careful consideration of the specific facts, the number of allegations and a clear indication to the doctor that the possibility of such accumulation exists from the outset of proceedings. That case emphasised that the Tribunal would have to make it clear to the doctor if they were considering findings on a cumulative basis.

31. In reaching its determination, the Tribunal had regard to the *Guidance for MPTS tribunals (2025)* ('the Guidance').

32. To assess whether Dr Elhakim poses any current and ongoing risk to public protection which may require restrictive action in response, the Tribunal will consider:

- where on the spectrum of seriousness the allegation lies, based on the facts found proved

- the impact of any relevant context known about Dr Elhakim and/or his working environment, and
- how Dr Elhakim has responded to the allegations.

33. The Tribunal should also have in mind the test in *Cohen v General Medical Council [2008] EWHC 581 (Admin)* where it was held that Tribunals ought to take into account evidence and submissions from both the doctor and the GMC regarding the doctor's misconduct, asking:

- Is it easily remediable?
- Has it already been remedied?
- Is it highly unlikely to be repeated?

34. The Tribunal was reminded that insight is a central consideration when determining impairment. In *CHRE v NMC and Grant* [2011], Mrs Justice Cox referred to the fifth report of the Shipman Inquiry, which posed four key questions for a Tribunal to consider when determining current impairment:

(a) Has the doctor in the past acted, and/or is he liable in the future to act, so as to put a patient or patients at unwarranted risk of harm?
(b) Has he in the past brought, and/or is he liable in the future to bring, the profession into disrepute?
(c) Has he in the past breached, and/or is he liable in the future to breach, one of the fundamental tenets of the profession?
(d) Has he in the past acted dishonestly, and/or is he liable in the future to act dishonestly?

The Tribunal's determination on impairment

Is there a legal basis for considering impairment?

35. The Tribunal first considered whether Dr Elhakim's actions amounted to misconduct.

36. In relation to Dr Elhakim's comment to Dr A about the speculum at particular 1(b) of the Allegation, the Tribunal considered that this took place within the workplace and that Dr Elhakim accepted that this was a serious departure from the standards expected. It also

considered that it had found that this amounted to sexual harassment due to the effect it had on Dr A, even though this was not Dr Elhakim's intent.

37. The Tribunal concluded that Dr Elhakim's actions breached paragraphs 36 and 37 of GMP, which state:

> *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.*

38. The Tribunal was satisfied that Dr Elhakim's actions therefore amounted to serious misconduct.

39. In respect of particulars 2(a), (b), (c), (d) and (f) of the Allegation, the Tribunal reminded itself of its finding at the facts stage that Dr Elhakim's actions were not sexually motivated, did not amount to harassment and were not an abuse of his more senior position.

40. The Tribunal concluded that these actions fell below, but not seriously below the standards expected and so did not amount to serious misconduct.

41. In respect of particular 2(g) of the Allegation, the Tribunal reminded itself of its finding at the facts stage that this comment was an ill-judged and inappropriate attempt at humour. Whilst it found that this behaviour was not sexually motivated and Dr Elhakim had gone to Dr A and Dr C's flat to apologise to Dr A, it did constitute sexual harassment, which Dr Elhakim admitted, and that Dr A was very upset and affected by this.

42. Dr Elhakim admitted at the outset of proceedings that this was an abuse of his more senior position, and the Tribunal therefore found this proved. However, the Tribunal found at the facts stage that it had not been provided with any compelling evidence that Dr Elhakim had abused his more senior position or that his seniority was material. Therefore the Tribunal did not attribute significant weight to this admission or the power differential in reaching its decision on misconduct.

43. In all the circumstances, the Tribunal determined that Dr Elhakim's comment at particular 2(g) fell seriously below the standards expected, particularly given the finding that it constituted sexual harassment, and therefore amounted to serious misconduct.

44. In relation to paragraph 3(a) of the Allegation, the Tribunal considered its earlier findings and that Dr Elhakim gave an account of why he made the comment, which the Tribunal found credible. Whilst there was evidence that Dr Elhakim's comment had some limited impact on Dr B, she was not distressed and it did not strongly affect her. The Tribunal found that Dr Elhakim's comment did not amount to sexual harassment, was not sexually motivated and was not an abuse of his more senior position.

45. The Tribunal concluded that whilst Dr Elhakim's comment to Dr B fell below the standards expected, it did not fall seriously below so as to amount to serious misconduct.

46. The Tribunal therefore determined that Dr Elhakim's actions in relation to the two comments he made to Dr A at particulars 1(b) and 2(g) fell seriously below the standards expected, amounted to misconduct which was serious, and that there was a legal basis for considering impairment in this regard.

Where on the spectrum of seriousness does the allegation lie?

47. The Tribunal considered the submissions made by both parties, with Mr Rigby submitting that the misconduct fell at the higher end of the spectrum of seriousness and Mr Morris submitting that it fell within the medium range. It also considered that the Introduction section of the Guidance indicates that cases involving sexual harassment would usually fall at the higher end of the spectrum of seriousness and risk:

> *66. Most allegations relating to sexual misconduct have a starting point of a high level of seriousness and therefore fall at the higher end of the spectrum of seriousness. This means the starting point for assessing current and ongoing risk to public protection will usually be high.*
>
> …
>
> *69. The level of risk associated with a sexual misconduct allegation will generally be medium or high.*

48. The Tribunal concluded that there were no features present which would increase the seriousness of the allegation as it had found that Dr Elhakim had not abused his professional

position, that his actions were not sexually motivated or premeditated, and that his actions had not detrimentally affected the ability of his colleagues to carry out their clinical practice.

49. The Tribunal also considered that whilst there were two instances of an inappropriate comment made by Dr Elhakim to Dr A, and so technically repeated, these were three days apart and were not persistent.

50. The Tribunal also reminded itself of its finding that Dr Elhakim had no intention of harassing Dr A, although his actions had that effect. It also noted that Dr Elhakim had made no attempts to minimise or dismiss his actions.

51. The Tribunal, whilst acknowledging that all cases of sexual misconduct and sexual harassment are by their nature serious, determined that the features of this case led to an assessment of the seriousness as falling within the mid-range on the spectrum of seriousness, and that there were no factors present which would increase the seriousness of the allegation.

52. In reaching this decision, the Tribunal was mindful of the Guidance, which states:

> *30. Seriousness is determined across a continuous spectrum. Whilst a view on where on the spectrum of seriousness an allegation lies will need to be reached based on the individual circumstances of the case, behaviour or poor performance falling between the types of examples listed above and below may fall at the mid-range level of seriousness as a starting point before features that increase seriousness are considered.*

53. The Tribunal has assessed the misconduct as falling in the medium range of the spectrum of seriousness. It has balanced its findings that Dr Elhakim had made two ill-judged, inappropriate comments to Dr A without any intent to harass or offend her, and no sexual motive. Against this, the Tribunal has found that the misconduct nonetheless did offend Dr A and it did amount to sexual harassment.

<u>What is the impact of any relevant context known about Dr Elhakim and/or his working environment?</u>

54. The Tribunal considered that it had not been provided with any evidence of any personal or professional context which would affect its assessment of the seriousness of Dr Elhakim's misconduct or the risk to public protection.

55. It also noted that no submission had been made by either party that there were applicable contextual factors in this case.

How has Dr Elhakim responded to the allegations?

56. The Tribunal considered that the evidence before it demonstrated that once the matter had been brought to his attention, Dr Elhakim demonstrated recognition and apologised. From the time of the Trust interview, Dr Elhakim did not seek to minimise or justify his actions and their impact on his colleagues.

57. The Tribunal also considered that it had been provided with more recent evidence of how Dr Elhakim continues to develop and demonstrate insight and empathy. The Tribunal considered Dr Elhakim's expressions of remorse to be genuine and it accepted the submission of Mr Morris that Dr A had expressed that she did not wish to speak to Dr Elhakim again and that he respected her wishes and did not pursue the matter and further attempt to apologise in person.

58. The Tribunal also noted that Dr Elhakim made some admissions at the outset of proceedings and accepted that his actions in respect of Dr A amounted to misconduct and that a finding of impairment was necessary, demonstrating that he has clearly understood the seriousness of the findings against him.

59. In addition to Dr Elhakim's written reflections the Tribunal was provided evidence of CPD undertaken by him, including a sexual misconduct workshop, a professional boundaries course, an active bystander course and his reflections on the various courses. He also provided examples of how he applies his learning to his current practice.

60. In considering the level of insight, the Tribunal was mindful of the Guidance, which states:

> *81. To demonstrate insight, and insight which is genuine, the doctor will need to show they understand what happened and accept how they could have acted differently. This involves showing, where relevant, that they have:*

- *considered the allegation, understanding what went wrong and accept they should have acted differently*
- *fully understood the impact or potential impact of their behaviour, performance, or health condition*
- *empathy for any individual affected, for example by apologising*
- *taken, or are taking, steps to remediate and to identify how they will act differently in the future to avoid similar issues arising*

  …
- *co-operated with earlier investigations into the allegation (if they had the opportunity to do so) and engaged with the GMC's investigation, and/or*
- *self-referred to their employer and/or the GMC.*

61. The Tribunal was satisfied that the evidence in this case demonstrated that Dr Elhakim's insight was genuine and well-developed. In his written reflections he set out how the CPD undertaken helped him develop his understanding and appreciation of sexual misconduct and harassment in the workplace. The Tribunal attributed particular weight to his reflections on the *Surviving in scrubs* campaign. The Tribunal was also satisfied that Dr Elhakim had sufficient understanding and strategies to avoid repeating his behaviour in future.

62. The Tribunal also considered the Guidance in respect of remediation, which states:

99. Remediation can take several forms, including, but not limited to:

…

- *where the allegation relates to behaviour, attending courses relevant to the nature of the matters raised and showing that the learning has been applied*
- *evidence that shows what the doctor has learnt following the events that led to the allegation, and how they have applied this learning in their practice*
- *evidence of good practice in a similar environment to where the allegation arose – this will often be evidence from a doctor's employer showing that they were aware of the allegation and have evaluated the doctor's practice*

  ..

63. The Tribunal considered that Dr Elhakim had undertaken significant remediation and demonstrated his insight in relation to the CPD he had undertaken.

64. The Tribunal considered that the testimonials provided on Dr Elhakim's behalf were relevant at this stage as they demonstrated evidence of good practice in a similar environment to where the allegation arose. The Tribunal noted that apart from a suspension by the Trust from January 2024 to October 2024, Dr Elhakim has continued to work with the whole range of junior doctors from FY1s up to consultant level without any further concerns.

65. The Tribunal was of the opinion that whilst sexual misconduct can be difficult to remediate, Dr Elhakim did not demonstrate any deep-seated or attitudinal issues and that his behaviour was therefore remediable. Further, it considered that he had well-developed insight and undertaken targeted and relevant remediation.

66. In all the circumstances, the Tribunal determined that the risk of repetition of Dr Elhakim's misconduct was therefore low.

Tribunal's decision as to whether Dr Elhakim poses any current and ongoing risk to public protection which may require restrictive action in response and its finding on impairment

67. The Tribunal concluded that on the basis of its finding that Dr Elhakim's misconduct fell at the mid-range of the spectrum of seriousness, the starting point for assessing the risk to public protection was medium.

68. In reaching its decision, the Tribunal was mindful of the following paragraph of the Guidance:

> *68. In such [sexual misconduct] cases the MPT's decision on risk should reflect this and a conclusion that the doctor poses a current and ongoing risk to public protection may be needed even in cases where the doctor has shown insight and taken steps to try and remediate. Where the MPT concludes that the doctor poses a current and ongoing risk, this will result in them finding that the doctor's fitness to practise is impaired.*

69. The Tribunal concluded that given its finding of two counts of sexual harassment, the second and third limbs of public protection were engaged and that public confidence in the profession; and proper professional standards and conduct for members of the profession would be undermined were a finding of impairment not made. It was satisfied that patient safety was not applicable in this case and the first limb of public protection was therefore not

engaged, noting that both counsel submitted that the second and third limbs were relevant in the circumstances of this case.

70. The Tribunal also considered the test set out in *Grant*, above, and concluded that Dr Elhakim's conduct had in the past brought the profession into disrepute; and had in the past breached one of the fundamental tenets of the profession.

71. In all the circumstances the Tribunal determined that a finding of impairment was necessary in order to mark the seriousness of the findings and send a signal to Dr Elhakim and the wider profession that such behaviour is not acceptable and will not be tolerated.

72. The Tribunal has therefore determined that Dr Elhakim's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 09/07/2026

1. Having determined that Dr Elhakim'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, the appropriate sanction, if any, to impose.

The evidence

2. The Tribunal has reviewed its findings at the facts and impairment stages and 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

3. On behalf of the GMC, Mr Rigby submitted that in reaching a decision on sanction the Tribunal should be mindful of its findings that Dr Elhakim's insight was genuine and well developed, that he had undertaken significant remediation, that the risk of repetition was low, that the misconduct fell at the mid-range of the spectrum of seriousness, and that a finding of impairment was necessary in order to mark the seriousness of the findings and to send a signal to Dr Elhakim and the wider profession that such behaviour is not acceptable and will not be tolerated.

4. Mr Rigby submitted that on the basis of these findings and the *Guidance for MPTS tribunals (2025)* ('the Guidance'), the appropriate and proportionate and fair sanction was that of suspension.

5. Mr Rigby submitted that taking no action would be completely untenable, bearing in mind the seriousness of the findings. He submitted that conditions would not be appropriate and that there were no conditions that one could design which would meet the circumstances of Dr Elhakim's misconduct, and that on the Tribunal's findings, remediation is almost complete in any event. He submitted that conditions would not meet the need to mark the seriousness of the findings and to send a signal to Dr Elhakim and the wider profession.

6. Mr Rigby submitted that the Guidance indicates that suspension would be the appropriate and proportionate sanction in the circumstances. He submitted that the Tribunal should have regard to the indicative sanctions banding contained within the Guidance, and that a period of six to twelve months is indicated for sexual misconduct cases with a medium risk to public protection.

7. Mr Rigby submitted that a review should be directed bearing in mind that remediation is not yet complete.

<u>On behalf of Dr Elhakim</u>

8. On behalf of Dr Elhakim, Mr Morris submitted that in the circumstances of this case, a sanction of suspension was required and he did not seek to make any submission in relation to any lesser form of sanction.

9. Mr Morris submitted that the Tribunal found that Dr Elhakim's misconduct fell at the mid-range of the spectrum of seriousness and that the starting point for assessing the risks to public protection was medium. He submitted that the indicative sanction banding for this medium level of risk, in a case of sexual misconduct, is suspension of between 6 and 12 months but that these bandings are a guide and not a mandatory protocol, as set out in Part C of the Guidance which states:

> *8. For some types of cases, sanctions bandings are available. The MPT should be mindful that these provide a guide, and there may be evidence relevant to the individual*

circumstances of the case that indicates the appropriate action should be lower or higher than that indicated by the bandings. This can include whether the type of sanction should be less or more restrictive, or where conditions or suspension are imposed, that the length should be longer or shorter than that stated.

10. Mr Morris submitted that the Tribunal should also bear in mind the following paragraphs of the Guidance:

46. The MPT will need to decide the appropriate length of time that suspension should be put in place for, up to the maximum of 12 months. The following factors will be relevant:

a. the assessment of the level of current and ongoing risk to public protection posed by the doctor
b. the reasons for assessing suspension as being the proportionate response
…
d. the amount of time the parties will reasonably need to prepare for any review of whether the doctor continues to pose a current and ongoing risk to public protection requiring restrictive action in response or is safe to return to unrestricted practice.

…

47. A short suspension may be appropriate in cases where: the doctor's behaviour fell at the higher end of the spectrum of seriousness; there was evidence of relevant context and/or evidence of insight and remediation that decreased the level of current and ongoing risk to public protection such that there are no outstanding patient safety considerations; and suspension is being imposed on public confidence grounds and/or to maintain professional standards. It might also be appropriate in relation to a very small number of clinical cases where a doctor's performance was such that although unlikely to recur, the nature of the allegation was so serious as to undermine the public's trust in the profession.

11. Mr Morris submitted that while sexual harassment is by its nature serious, there were no features increasing the seriousness of the misconduct. He submitted that the Tribunal found that Dr Elhakim had no intention of harassing Dr A, that his insight was genuine and

well developed, that he had undertaken targeted and relevant remediation and that the risk of repetition was low.

12. He submitted that the Tribunal determined that in the circumstances a finding of impairment was necessary to mark the seriousness of the findings and to signal to Dr Elhakim and the profession that such behaviour is not acceptable and will not be tolerated and thereby to ensure public confidence is maintained. He submitted that the fact that Dr Elhakim has gained effectively full insight and undertaken effective remediation means that no further remediation is required.

13. Mr Morris submitted that the Tribunal should also bear in mind the following paragraphs of the Guidance:

10.

…

The interests of the doctor will include the impact on their career. This means when deciding what sanction is required, it may be appropriate to consider any increased impact a specific outcome would have on an individual doctor compared to others, considering their specific circumstances. However, case law is clear that the need to protect the public always outweighs the interests of any individual medical professional. And while restrictive action is not put in place to punish or discipline a doctor, a sanction may have a punitive effect yet still remain necessary.

…

64. Once the MPT has applied the bandings to reach a provisional view on what sanction is appropriate, before finalising their decision they must consider if there is any additional evidence that may be relevant to deciding what sanction is proportionate. They should also remind themselves of their decision on how the case engaged one of more of the three parts of public protection with reference to their decision on impairment and the general guidance and specific case types section in the Introduction.

…

69. Evidence about the impact a specific type of action will have on patients and members of the public will usually only be relevant where is it likely the doctor will stay working in their area of specialty or the same geographical area.

…

70. Where the MPT concludes that the impact a specific type of action will have is relevant to their decision on sanction, the weight to be given to it is a matter for their judgment, having regard to their earlier assessment of the current and ongoing risk to public protection posed by the doctor. But in most cases, particularly those where the allegation fell at the higher end of the spectrum of seriousness, this type of evidence may have limited, if any, impact because it will be outweighed by the need to protect the public.

14. Mr Morris submitted that suspension would have a wider adverse effect on the public interest in preventing a safe and exceptionally good surgeon from practising and that the effect would be felt acutely by his employing Trust, its patients and his colleagues, especially junior colleagues who have benefited from his much-praised teaching. Mr Morris drew the Tribunal's attention to the testimonials and feedback provided on Dr Elhakim's behalf and submitted that this demonstrates that Dr Elhakim consistently performs to a high standard of work, has always been very supportive of junior doctors, engages in teaching on a regular basis, and guides junior medical staff to carry out audit or research projects.

15. Mr Morris submitted that the Guidance also refers to the interests of a doctor and the impact on their career. He said that suspension would involve Dr Elhakim's removal from practice and the loss that flows from this would include a de-skilling of his surgical skills. In terms of impact on Dr Elhakim's career, Mr Morris submitted that this may be greater than for other doctors because Dr Elhakim has reached a critical transitional stage of his career. Whilst he has passed his exams and obtained his FRCS (Fellowship of the Royal Colleges of Surgeons), he has been unable to secure his certificate of completion of training which has been deferred for consideration following the outcome of this hearing. Mr Morris submitted that but for this investigation and the deferral, Dr Elhakim would now undoubtedly have obtained his certificate of completion of training and be in the process of applying for a substantive consultant post, or have already achieved success in securing a substantive consultant post.

16. Mr Morris submitted that as set out in the Guidance, a short period of suspension may be appropriate even in cases at the higher end of the spectrum of seriousness where there is evidence of insight and remediation that can be said to decrease the level of current and ongoing risk to public protection. He submitted that the Tribunal could properly come to a final view that the individual circumstances of this case point to the fact that the necessary proportionate suspension period to maintain public confidence and uphold standards can be shorter than that stated in the medium banding level of 6 to 12 months' suspension.

17. Mr Morris submitted that a review hearing is unnecessary in this case as the Tribunal has found that Dr Elhakim has effectively remedied his misconduct in terms of his insight and remediation and that the sanction being imposed is not for the purpose of further remediation and a necessary review of that remediation, but as a deterrent signal to him and the profession.

The relevant legal principles

18. The Tribunal was reminded that the decision as to the appropriate sanction, if any, to impose is a matter for its independent judgement. When determining whether to impose a sanction and, if so, when determining the appropriate sanction, it should have regard to the principle of proportionality and should start by considering the least restrictive option.

19. The Tribunal reminded itself that the main reason for imposing a sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. However, case law makes clear that the reputation of the medical profession as a whole is more important than the interests of an individual doctor.

20. In making its decision on sanction, the Tribunal has reviewed its decision on facts and impairment and has considered the level of current and ongoing risk the doctor poses to public protection. It has referred to the sanctions banding for sexual misconduct cases as set out in Part C of the Guidance for MPT hearings, which indicates a period of suspension between six and twelve months for sexual misconduct cases with a medium level of risk to public protection. It has also considered the impact of any specific sanction type, where applicable, and the references and testimonials provided.

21. Although the Guidance includes indicative sanctions bandings, as set out above, the Tribunal acknowledged that these are indicative rather than binding and any decision on

sanction is one ultimately for the Tribunal. Accordingly, the Tribunal started its consideration at the least restrictive sanction.

The Tribunal's determination on sanction

No action

22. The Tribunal first considered whether to conclude the case by taking no action.

23. The Tribunal determined that there were no exceptional circumstances which would warrant the taking of no action, particularly in the context of the facts found proved and the Tribunal's determination on impairment. It considered that taking no action would not be proportionate, or sufficient to protect the public.

24. In reaching this decision it also noted the submissions on behalf of Dr Elhakim that he accepted that a period of suspension was the appropriate sanction in the circumstances.

Conditions

25. The Tribunal next considered whether to impose conditions on Dr Elhakim's registration. It bore in mind that any conditions imposed would need to be appropriate, workable, measurable and proportionate.

26. The Tribunal considered the sanctions bandings for cases where there is a medium level of risk to public protection and noted that it does not indicate that conditions would be sufficient to meet the level of risk identified in this case.

27. The Tribunal also considered that it would not be possible to formulate workable conditions in relation to the misconduct found in this case, where one incident of Dr Elhakim's misconduct occurred outside his workplace. Further, even if workable conditions could be formulated, these would not be proportionate and would fail to maintain public confidence and uphold professional standards in light of the seriousness of the findings.

Suspension

28. Having determined that taking no action or imposing conditions would not be appropriate, the Tribunal went on to consider whether to impose a period of suspension on Dr Elhakim's registration.

29. The Tribunal noted that both counsel had submitted that a period of suspension was the appropriate and proportionate sanction in the circumstances of this case.

30. The Tribunal bore in mind the following paragraphs of the Guidance:

> *45. Suspension may be proportionate in cases where some, or all, of the following factors are present:*
>
> > *a. conditions are not appropriate, measurable and/or workable*
> > *…*
> > *c. the level of current and ongoing risk to public protection is such that, although patient safety is not an issue, suspension is needed to maintain public confidence in the profession and/or maintain professional standards.*
>
> *47. A short suspension may be appropriate in cases where: the doctor's behaviour fell at the higher end of the spectrum of seriousness; there was evidence of relevant context and/or evidence of insight and remediation that decreased the level of current and ongoing risk to public protection such that there are no outstanding patient safety considerations; and suspension is being imposed on public confidence grounds and/or to maintain professional standards. It might also be appropriate in relation to a very small number of clinical cases where a doctor's performance was such that although unlikely to recur, the nature of the allegation was so serious as to undermine the public's trust in the profession.*

31. The Tribunal considered that the Guidance indicated that a period of suspension was appropriate and that the above paragraphs were applicable in that although patient safety was not an issue, suspension was needed to maintain public confidence in the profession and/or maintain professional standards.

32. The Tribunal was satisfied that a period of suspension was proportionate and was sufficient to maintain public confidence and maintain standards, and send a suitable signal regarding Dr Elhakim's misconduct.

33. In considering the appropriate length of sanction the Tribunal reminded itself of its findings at the earlier stages that Dr Elhakim has well-developed insight, has undertaken targeted and effective remediation, and that there was a low risk of repetition. The Tribunal found that Dr Elhakim's actions were not premeditated, predatory or sexually motivated and that whilst there were two instances of misconduct within a period of three days, his misconduct was not persistent.

34. The Tribunal determined that Dr Elhakim's misconduct was in the medium range of the spectrum of seriousness and therefore the risk to public protection was also medium, owing to the fact that his actions, though not intended to be or sexually motivated, amounted to sexual harassment. However, the Tribunal considered that his misconduct did fall at the lower end of the mid-range of the spectrum of seriousness.

35. The Tribunal also considered that Dr Elhakim has an otherwise unblemished career, made some early admissions to the allegations and did not seek to minimise or justify his actions. The Tribunal also took into account the positive testimonials provided on Dr Elhakim's behalf demonstrating how his clinical practice is of a high standard, valuable to the Trust and patients, and that he regularly engages with teaching and supporting the development of junior colleagues.

36. The Tribunal also took into account the impact both on the profession and patients, and Dr Elhakim of any suspension. In doing so it was mindful of the following paragraph of the Guidance:

> *69. Evidence about the impact a specific type of action will have on patients and members of the public will usually only be relevant where it is likely the doctor will stay working in their area of specialty or the same geographical area.*

37. The Tribunal heard evidence that Dr Elhakim was continuing to pursue a career in his area of speciality, namely surgery, and that he continued to practise within the same geographical location.

38. The Tribunal considered that it had heard evidence regarding the detrimental impact of any period of suspension to both the profession, including colleagues and patients, and to Dr Elhakim's career, which was at a critical point. It also considered that there was also a potential risk of deskilling during any period of suspension, particularly for a surgeon.

39. The Tribunal therefore assessed what the minimum period of suspension that would maintain public protection would be, which would also be adequate to mark the seriousness of its findings. In doing so it bore in mind paragraph 47 of the Guidance, as set out above.

40. The Tribunal considered that in all the circumstances and in light of the mitigating factors, and absence of aggravating factors, that a six-month period of suspension, as suggested in the sanctions banding, would be disproportionate and not in the public interest, and would have an unnecessarily punitive effect.

41. The Tribunal concluded that a three-month period of suspension was the minimum period which would adequately reflect the totality of its findings and uphold public protection. It was satisfied that this was proportionate and sufficient to promote and maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of the profession.

42. The Tribunal then went on to consider whether to direct a review. In doing so, it reminded itself of its findings that Dr Elhakim's insight was genuine and well developed, that he had undertaken significant, targeted and effective remediation, and that the risk of repetition was low.

43. The Tribunal concluded that a review was not necessary and that it was not clear what further demonstration of insight and remediation would be required of Dr Elhakim at any review.

44. The Tribunal therefore determined to suspend Dr Elhakim’s registration for a period of three months, with no review required.

Determination on Immediate Order - 09/07/2026

1. Having determined that Dr Elhakim’s registration be suspended, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Elhakim’s registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Rigby submitted that it was appropriate to impose an immediate order in this case and was necessary to maintain public confidence.

3. Mr Rigby submitted that whilst he did not know whether Dr Elhakim intended to work during the appeal period, this would be particularly inappropriate given the Tribunal's finding that the second and third limbs of public protection were engaged.

4. On behalf of Dr Elhakim, Mr Morris submitted that Dr Elhakim had alerted his hospital to the possibility that he may not be able to work, but they have not cancelled his clinics or procedures, so he would be planning to work in the interim period.

5. Mr Morris submitted that the Guidance identifies a number of factors which indicate an order may be appropriate, which are not applicable in this case. He submitted that since January 2023, Dr Elhakim has been practising in the same hospital and in the same colleague environment for over three years without any concern and the Tribunal found that the likelihood of repetition was low.

6. Mr Morris submitted that in the circumstances, it would be unfair and disproportionate to add a month to the three-month period that the Tribunal determined was proportionate and appropriate. He submitted that a further factor to consider is the interest of Dr Elhakim in returning to work pending the outcome of any appeal, as referenced within paragraph 81 of Section C of the Guidance below, and clearly this would also be in the wider public interest, namely the interests of the hospital in Elgin and its patients.

> *81. When deciding if an immediate order is needed, the MPT should balance these considerations against the other interests of the doctor, which may be to return to work pending the outcome of any appeal, and against the wider public interest which may require an immediate order is put in place.*

The Tribunal's Determination

7. The Tribunal considered that it may impose an immediate order if it considers it necessary for the protection of members of the public or is otherwise in the public interest.

8. The Tribunal had regard to the relevant paragraphs of the Guidance, in particular paragraphs 83 and 84, which set out:

> *"83. The decision whether to impose an immediate order is at the discretion of the MPT based on the facts of the case. When deciding if an immediate order is needed the*

MPT should consider the seriousness of the proved allegation and the level of current and ongoing risk to public protection posed by the doctor.

84 It will not usually be appropriate for a doctor to hold unrestricted registration until a sanction takes effect in cases where:

a. the doctor poses a risk to patient safety
b. the risk to one or more parts of public protection is high, and/or immediate action is needed to maintain public confidence in the medical profession
c. immediate action is needed to maintain public confidence in the medical profession."

9. The Tribunal considered that there was no risk to patient safety in this case or a high risk to public protection, as set out in paragraph 84 of the Guidance. The Tribunal considered that the purpose of the substantive suspension was to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

10. Having determined that a three-month suspension was sufficient to maintain public protection, the Tribunal concluded that no further, immediate action was required to uphold public confidence. The Tribunal concluded that it would be disproportionate and not in the public interest to deprive the hospital, patients, and the colleagues Dr Elhakim supports during the appeal period, noting that Dr Elhakim had clinics and surgeries booked for this period.

11. In reaching its decision, the Tribunal took into account that Dr Elhakim has been working in the same environment for several years since the events with no concerns or repetitions.

12. The Tribunal therefore determined that an immediate order was not necessary in the circumstances of this case.

13. This means that Dr Elhakim's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. If Dr Elhakim does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

14. There was no interim order to revoke.

15. That concludes this case.