PUBLIC RECORD

Dates: 26/04/2021 - 06/05/2021 and 08/11/2021 - 10/11/2021

Medical Practitioner's name: Dr Hisham MAKSOUD

GMC reference number: 4146159

Primary medical qualification: MB BCh 1990 National University of Ireland

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome
Warning

Tribunal:

Legally Qualified Chair	Mr Julian Weinberg
Lay Tribunal Member:	Mrs Anita Hargreaves
Medical Tribunal Member:	Dr Andrew Cohen

Tribunal Clerks:	Ms Keely Crabtree (26/04/21 - 06/05/21) Ms Maria Khan (08/11/21 - 09/11/21) Ms Jennifer Coakley (10/11/21)

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Peter Lownds, Counsel, instructed by Medical Protection
GMC Representative:	Ms Sarah Barlow, Counsel (26/04/2021 - 06/05/2021)

	Mr Nicholas Walker, Counsel (08/11/2021 - 10/11/2021)

Attendance of Press / Public

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

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts - 06/05/2021

1. Dr Maksoud graduated in 1990 from the Royal College of Surgeons, Dublin, and was included in the specialist register in Endocrinology and diabetes mellitus from 30 October 2001 and in General Internal Medicine from 30 October 2001.

2. Dr Maksoud has a number of other post graduate qualifications including: the Fellowship of the American College of Endocrinologist USA attained in 2008, the Fellowship of the Royal College of Physicians of London attained in 2007, the Fellowship of the Royal College of Physicians of Edinburgh attained in 2003, a CCST in Diabetes, Endocrinology and General Medicine from the Oxford Deanery in 2007, Doctor of Medicine - University College Dublin/Oxford Research Laboratories in 2001 and the MRCP UK in 1996. He obtained an LLM, Masters in Health Law, from Nottingham Trent University in 2014. Dr Maksoud has a specialist interest in thyroid disease, PCOS, hirsutism, diabetes, obesity and endocrine disease.

3. Dr Maksoud currently practises at Nuffield Hospital in Derby and the Nottingham Endocrine Clinic. These are positions which he has held since 2002 and 2019 respectively.

4. The Allegations that have led to Dr Maksoud's hearing relate to concerns were he allegedly pursued an inappropriate personal and sexually motivated relationship with a patient. The General Medical Council (GMC) alleges that between 17 March and April 2008, Dr Maksoud behaved in a sexually motivated manner towards a vulnerable patient, Patient A. Dr Maksoud had had a pre-existing friendly but professional relationship with Patient A for a number of years before her hospital admission which was predominantly related to his property investment portfolio. Patient A had undergone a thyroid operation and described Dr Maksoud overstepping his professional boundaries in the manner set out in the Allegation during and after the two hospital admissions.

5. The initial concerns were raised with the GMC following the reporting of the alleged inappropriate behaviour expressed by Patient A in June 2018 and to Dr C, Consultant Perinatal Psychiatrist within the Nottingham Perinatal Psychiatry Service, and to a Community Psychiatric nurse Ms D in May 2018. Dr C raised the concerns with the Associate Medical Director, Dr E, and Medical Director, Dr F, in August 2018 and January 2019. A referral was then made to the GMC.

The Outcome of Applications Made during the Facts Stage

6. The Tribunal granted Ms Barlow's application, made pursuant to Rule 34(1) of the GMC's (Fitness to Practise Rules) 2004 as amended ('the Rules'), for the admission of evidence from a GMC witness, Mr G. The Tribunal's full decision is included at Annex A.

7. The Tribunal also decided, of its own volition and under Rule 17(6) of the Rules, to amend paragraph 1(e) of the Allegation. The Tribunal was satisfied that, as there was no objection from parties, the amendment would cause no injustice to Dr Maksoud.

8. The Tribunal granted Ms Barlow's application to anonymise Patient A's parents throughout the hearing and to refer to them as Witness A and Witness B. Mr Lownds, Counsel for Dr Maksoud, did not object to the application. The Tribunal determined it was reasonable and appropriate to anonymise Patient A's parents, to ensure Patient A's anonymity and therefore decided to refer to them as Witness A and Witness B throughout the hearing.

The Allegation and the Doctor's Response

9. The Allegation, as amended, made against Dr Maksoud is as follows:

1. Between 17 March and April 2008 ('the First Admission') Patient A was admitted to The Park Hospital ('the Hospital') and you:

    a. visited Patient A at least once daily; Admitted and found proved

    b. on one or more occasion held Patient A's hand when you visited her; Admitted and found proved

    c. told Patient A that:

        i. she did not really want to be involved with someone with an ex-wife and two young children; To be determined

        ii. you had not responded to one of her emails until the following day because she had a male visitor in the afternoon; To be determined

iii. there were cameras in her room, when Patient A had asked you how you knew that she had a male visitor; To be determined

iv. you were sleeping at the Hospital because you were worried about her; To be determined

v. you wanted to buy her a new watch as a present when her old watch stopped working; To be determined

vi. you were not having a good relationship with your wife and were separating; To be determined

or words to that effect;

d. inappropriately set up a personal email account using the email address set out in Schedule 1 ('the Account'), specifically so that you and Patient A could communicate with each other; To be determined

e. sent one or more emails ~~from~~ to the Account to Patient A which:

i. addressed Patient A using the words set out in Schedule 2, or words to that effect; Admitted and found proved

ii. asked Patient A:

1. how she was; Admitted and found proved

2. if she slept well; Admitted and found proved

or words to that effect;

f. encouraged Patient A to visit you in your office at the Hospital; Admitted and found proved

g. advised Patient A to check the medication the nurses were giving her as they could not be trusted, or words to that effect; To be determined

h. on one or more occasion took Patient A out of the Hospital and:

i. took her to:

1. visit her horse at the riding stables; To be determined

2. a restaurant/hotel in Southwell for lunch; To be determined

ii. on one occasion tried to kiss Patient A in the car park of the XXX Hotel ('the Attempted Kiss'); To be determined

iii. on one occasion told Patient A:

1. not to tell the nurses when you took her out of the Hospital; To be determined

2. that you should go back into the Hospital separately; To be determined

or words to that effect.

2. After Patient A was discharged from Hospital following the First Admission, you suggested that she take a trip to America with you, so you could keep an eye on her, or words to that effect. To be determined

3. On or around 11 April 2008 ('the Second Admission') Patient A was readmitted to the Hospital and you:

a. collected her from her home address to take her to the Hospital; To be determined

b. told Patient A that you had moved another patient from the room number set out in Schedule 3, so that she could stay in the same room again. To be determined

4. After Patient A was discharged from Hospital following the Second Admission, on one or more occasion you told her to come to your clinic for appointments and you:

a. told Patient A to wait nearby until you confirmed she should come to the Hospital; Admitted and found proved

b. on one or more occasion made Patient A wait until after 22:00. Admitted and found proved

5. In or around April 2011, Patient A confronted you about the Attempted Kiss and the Account and you smiled and said that there was no proof, or words to that effect. To be determined

6. At all material times Patient A was vulnerable due to her:

a. physical health; **Admitted and found proved**

b. mental health; **Admitted and found proved**

7. Your action as described at paragraph 1hii was carried out without Patient A's consent. **To be determined**

8. Your actions as described at paragraphs 1 to 4 were:

a. for the purpose of pursuing an inappropriate personal relationship with Patient A; **To be determined**

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

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

The Admitted Facts

10. At the outset of these proceedings, through his counsel, Dr Maksoud made admissions to some paragraphs and 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.

Factual Witness Evidence

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

- Patient A, by video link;
- Ms I, friend of Patient A, by video link;
- Witness A, Patient A's father, by video link;
- Witness B, Patient A's mother, by video link.

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

- Dr C, Consultant Perinatal Psychiatrist within the Nottingham Perinatal Psychiatry Service;
- Mr G, Hypnotherapist.

13. Dr Maksoud provided his own witness statement dated 6 January 2021 and supplemental statements dated 4 March 2021 and 21 April 2021. Dr Maksoud also gave oral

evidence at the hearing. In addition, the Tribunal received evidence from the following witnesses on Dr Maksoud's behalf:

- Mr H, Research Nurse at Quotient Sciences, by telephone.

Documentary Evidence

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

- Patient A's medical records, including records of Dr Maksoud's care of Patient A and records from Patient A's General Practitioner;
- Patient A's first written account headed 'Maksoud', undated;
- Patient A's second account headed 'My Story by [Patient A]' dated Friday 20 May;
- Appointment notes prepared by Dr C dated 28 June 2018;
- Email correspondence, including correspondence between Dr C and Patient A, between Dr C and Dr F, also emails between Dr Maksoud and Patient A;
- Dr Maksoud's Curriculum Vitae and photographs of Dr Maksoud;
- Plan of Dr Maksoud's clinic office and consulting room;
- Testimonials on Dr Maksoud's behalf from 25 individuals.

The Tribunal's Approach

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

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1(c)(i)

17. The Tribunal noted Patient A's witness statement which stated:

> *'I remember telling Dr Maksoud that I had recently started seeing my partner ('[Patient A's partner]') and said that I didn't know if I wanted to be in a relationship at that time. Dr Maksoud said that I didn't need this complication in my life because [Patient A's partner] had children from a previous relationship'*

18. However, the Tribunal had regard to Patient A's oral evidence when she stated that she could not be sure this was what Dr Maksoud had said to her. The Tribunal considered

whether it is more likely than not that Dr Maksoud had told Patient A that she did not really want to be involved with someone with an ex-wife and two young children. It took account of the confusion expressed by Patient A in her oral evidence. The Tribunal found, on the balance of probabilities, paragraph 1(c)(i) of the Allegation not proved.

Paragraph 1(c)(ii)

19. The Tribunal noted Witness A's (Patient A's father) witness statement, which stated:

> *'We knew from what Patient A told us that Dr Maksoud had an issue with male visitors. She is popular and attractive and in hindsight it was probably sensible for him to say that she should not have so many visitors whilst she was recovering.'*

20. In his oral evidence Witness A told the Tribunal that it had probably not been fair to say that Dr Maksoud had an issue with just male visitors, but that it would have been fairer in his witness statement to say that the issue related to both male and female visitors. Witness A stated that, as a parent, he could understand why having so many visitors could have been too much for Patient A at the time due to her being very unwell and needing to recuperate.

21. The Tribunal also considered the oral evidence of Witness B, Patient A's mother. She stated that she could not be sure if Dr Maksoud had an issue with male visitors at the time. She said that it could have been the case that Dr Maksoud did not want Patient A to get too tired out with visitors generally as she was very unwell.

22. Patient A stated in her written statement that there had been an occasion when Dr Maksoud did not visit her as usual, and that she had emailed him using the account that had been set up. However, he did not respond until the next day. When she had asked Dr Maksoud why he had not responded, she stated in her written statement that he had told her that it was because she had had a male visitor in the afternoon.

23. Patient A stated that she had formed the view that Dr Maksoud did not like her having male visitors. However, in her oral evidence, Patient A retreated from this position and could not be entirely sure or specific as to the details of what had been said or discussed with Dr Maksoud in relation to her having male visitors.

24. Dr Maksoud stated that he could not recall the specific discussion with Patient A about why he may not have replied to her email. Patient A regularly sent emails to him and Dr Maksoud stated that he replied when he could, subject to his commitments. Dr Maksoud stated, whether or not Patient A had a visitor at the time, it would not have influenced the timing of his response to her emails.

25. The Tribunal determined that, given the evidence before it and on the balance of probabilities, the GMC had not discharged the burden of proof as to what had been

discussed in relation to Patient A having a male visitor. The Tribunal therefore found paragraph 1(c)(ii) of the Allegation not proved.

Paragraph 1(c)(iii)

26. Patient A in her evidence was clear, as she recalled it, that when she had asked Dr Maksoud how he had known that she had a male visitor, that he had said this was because there were cameras in her room. Patient A accepted that she had thought at the time the mention of cameras was Dr Maksoud's attempt at a joke as there were no cameras in her room. She stated that Dr Maksoud was quite a jovial person who could be quite 'jokey' at times and this is what she attributed the comment to.

27. Dr Maksoud stated that Patient A had many visitors, both male and female, during the evening when he was doing his ward rounds. He said that, if he was aware that any of his patients had visitors, he would avoid disturbing his patients during this time. He stated that there are no cameras in the rooms, nor anything that may be perceived to be a camera as patient privacy is paramount. Dr Maksoud stated that he had not, at any time, told Patient A that there was a camera in her room. Dr Maksoud accepted that the number of visitors had been a concern due to how unwell Patient A was at the time.

28. The Tribunal reminded itself that the test was whether, on the balance of probabilities, the incident was more likely than not to have occurred.

29. The Tribunal determined, on the balance of probabilities, it was more inclined to accept Patient A's account of events as she was consistent in her recollection of events in regard to the comment about a camera being in her room, albeit that Patient A considered it to be a joke. Dr Maksoud accepted that Patient A had had a number of visitors and the Tribunal thought it more likely than not that a discussion had taken place around visitors and that a comment about cameras was made in relation to this.

30. Accordingly, the Tribunal therefore found paragraph 1(c)(iii) of the Allegation proved.

Paragraph 1(c)(iv)

31. Dr Maksoud described Patient A as being the most unwell patient he had in 2008. Dr Maksoud stated that he often stayed overnight at the hospital if there were any particularly ill in-patients who were in his care. This was to ensure that he was available quickly if needed as he lived around 30 minutes' travel away.

32. Dr Maksoud accepted that he may have said to Patient A that he was staying over at the Hospital and would be available as a means of reassuring her.

33. The Tribunal concluded that Dr Maksoud is a caring doctor and staying overnight at the hospital was part of his normal practice when he was worried about his patients. The Tribunal was of the view that, on the balance of probabilities, it was likely, given that Patient

A was Dr Maksoud's most unwell patient, he had said to Patient A that he was staying at the hospital because he was worried about her in the context of him wanting to make her feel better and less anxious.

34. The Tribunal therefore found paragraph 1(c)(iv) of the Allegation proved.

Paragraph 1(c)(v)

35. The Tribunal considered the evidence of Patient A. She was clear and consistent in recalling that, while in hospital, her watch had stopped working and her father had taken it away to have the battery replaced but had lost it in the process. She stated that Dr Maksoud had her looking at ladies watches and said he wanted to buy one as a present.

36. Patient A stated that Dr Maksoud had printed out pictures of watches and shown them to her. She stated that it then became obvious to her from his actions that Dr Maksoud was going to buy her a watch to replace the one that had been misplaced. Patient A stated that she did not recall Dr Maksoud ever saying that he wanted to or was going to buy her a watch, but this is the inference that she had made.

37. Dr Maksoud stated that he never offered to buy Patient A a watch, nor had he ever offered to buy any of his patients presents and never would.

38. The Tribunal was satisfied that a discussion had taken place between Patient A and Dr Maksoud about watches and that she had been shown pictures of watches. Notwithstanding Patient A's recollection of an incident regarding watches, her position under cross-examination was that she could not recall Dr Maksoud telling her that he wanted to buy her a new watch as a present as alleged. It had just been her assumption.

39. The Tribunal therefore found paragraph 1(c)(v) of the Allegation not proved.

Paragraph 1(c)(vi)

40. Patient A stated in her oral evidence, and also referenced it in her document named 'Maksoud' written in 2019, that Dr Maksoud had asked her to look for a house for him in her professional capacity, in an area near to where she lived as he was not having a good relationship with his wife and they were separating.

41. Dr Maksoud stated that he had been married for over 30 years and considered his marriage to be a happy one and has four children. He said that he and his wife work very hard to provide for their children and are family focused.

42. Dr Maksoud stated that his wife, in her role as Practice Manager, was involved in Patient A's care and frequently communicated with her. Dr Maksoud stated that his wife did return to Ireland with their children for a period of time, around early 2013 to July 2017, to care for her elderly parent and therefore was not around the Hospital for some time.

However, every month he had gone over to Ireland or the family came back to the family home. Dr Maksoud stated that it was therefore possible that the reason for his wife's absence may have been misinterpreted. Dr Maksoud stated that he and his wife had never separated and remained happily married.

43. The Tribunal noted that Patient A had not mentioned to Witness B, her mother, in 2011, that Dr Maksoud had said to her that he was having issues with his wife/marriage even though Patient A had disclosed other personal details and criticisms of Dr Maksoud at this time. The Tribunal also noted that Patient A could not specify a date when this discussion took place.

44. Mr H told the Tribunal that it was possible that the suggestion of Dr Maksoud having marital issues could have been because of gossip amongst staff at the hospital due to the absence of Dr Maksoud's wife while she was in Ireland.

45. The Tribunal was therefore not satisfied to the required standard that a discussion between Dr Maksoud and Patient A about his marriage had taken place at the time that Patient A was an inpatient in 2008. The Tribunal determined that the GMC had not discharged its burden of proof and therefore found paragraph 1(c)(vi) of the Allegation not proved.

Paragraph 1(d)

46. Patient A stated that Dr Maksoud would communicate with her via email between in-person visits, initially with test results. She said that Dr Maksoud had been concerned about one of her friends who ran the IT contract for her family business, having access to these emails and that he believed that this friend could be snooping on their emails. He therefore suggested and set up a separate personal email account and said that they should communicate using this account.

47. Patient A stated that she did have her mobile phone with her in the hospital but cannot recall if Dr Maksoud set up the email account on this device or whether he just gave her the email name and password. Patient A said that Dr Maksoud had been insistent on using this account and had to remind her to use it as she had said to him that she did not think that it was needed as she had no concerns about the current arrangement.

48. Patient A stated that the email account name "hhs", stood for "holding hands" and 69 was the room number that she was staying in.

49. Patient A stated that the emails were friendly, and only went as far as Dr Maksoud addressing her as 'lovely lady in room 69'. She said that the emails exchanges mainly discussed blood test results and any medical concerns she had.

50. She stated that she can still access the email account but all the emails they exchanged have been deleted. She stated she could not remember when this was done but

she had a vague recollection of Dr Maksoud asking her to delete them, but she could not now remember whether she or he had done this.

51. Dr Maksoud accepted that a separate email address was set up at his suggestion to help him manage the flow of emails and telephone calls that he received from Patient A. Further, Patient A had expressed concern about confidentiality of communicating by email as an IT consultant was employed by her company. The email address belonged to Patient A and not himself. Dr Maksoud stated that it was Patient A who had set the email account up. Further, that at the time in 2008, he was not technically "computer savvy" and would not have known how to do this.

52. Dr Maksoud stated that the email address / name was arrived at between himself and Patient A but he cannot recall who suggested the specific email address that was created. However, Dr Maksoud stated that he did not agree with Patient A's recollection of what the email address represented. He stated that the "hhs" within the email address represented "helping" hands not "holding" hands. He accepted that the number represented the room number allocated to Patient A during her First Admission. Dr Maksoud referred to correspondence he had forwarded to Patient A's private health insurer, Norwich Union, dated 15, 18 and 29 April 2008, in which Patient A's room number at the hospital was noted.

53. Dr Maksoud stated:

> *"With hindsight I agree that it was a mistake to suggest a separate email address in an effort to reduce the number of telephone calls and emails that I received from [Patient A] which was difficult and impacted on my clinics. [Patient A] needed a lot of reassurance which is why I suggested a separate email address. I wanted her to feel supported but at the same time I needed to manage communication. This was a mistake which I now regret I refer to [Patient A's] statement that confirms that the email address was used to communicate about blood tests and consultations, and it is therefore clear that the email address was not used for communications of a personal nature."*

54. Dr Maksoud stated in his oral evidence that this way of communicating with Patient A functioned as a notice board which made it far easier for him to filter the emails from Patient A as he received so much correspondence from her.

55. When asked by the Tribunal as to Dr Maksoud's technical computer ability in 2008, Mr H stated that at that time he would have been less familiar with email then than now but could not say if he would have been able to set this up.

56. The Tribunal concluded that the shared email address, which was private to only Patient A and Dr Maksoud, was far removed from the standard processes which were already in place at the hospital for him to be able to communicate with patients. As such, it concluded this was an inappropriate way of communication between patient and doctor, as it

was private, concealed from others and was overly familiar. It had the potential to blur the safeguarding boundaries as it bypassed the standard routes of communication.

57. The Tribunal rejected Dr Maksoud's position that this private account facilitated his communication with Patient A as it would enable him to have a dedicated email account that he could access at a time of his choosing. The Tribunal considered that it was open to Dr Maksoud to open and read, and reply to Patient A's emails at the time of his choosing even if the emails were sent to and from his usual email account. A separate email account, the Tribunal concluded, would not in reality ease the burden of considering and responding to Patient A's emails.

58. The Tribunal found that Patient A was clear and consistent in her evidence that she had not set up this email account. In addition, given the evidence from both Patient A and Dr Maksoud, they were the only people that had access to this email account.

59. The Tribunal concluded that it would have been more difficult for Patient A to set this email account up as she was a patient at the time who was very unwell in hospital. It has been accepted by Dr Maksoud that it was him that had instigated the private email for correspondence between himself and Patient A. The Tribunal does not accept that Dr Maksoud, who already had a number of email addresses would not have been technically able to set this email account up.

60. The Tribunal therefore found, on the balance of probabilities, paragraph 1(d) of the Allegation proved.

Paragraph 1(g)

61. Patient A stated:

> *'He was constantly advising me to check the medication the nurses were giving me and saying that they could not be trusted'*

62. Dr Maksoud accepted that it would not have been unusual for him to suggest to his patients that they check their medication. However, he stated that he would never have made disparaging remarks about his colleagues, who he holds in high regard.

63. Dr Maksoud also stated:

> *'Patient A had poor memory at that time and struggled to manage her medications correctly and appreciate the importance of exact timing of taking the calcium and Vitamin D. I often had to repeat my instructions to her about her medication and the nurses reinforced my instructions and the importance of taking the medication correctly'*

64. The Tribunal concluded that a discussion did take place between Patient A and Dr Maksoud in regard to her checking her medication. It was accepted by Dr Maksoud that this was something he encouraged his patients to do as part of his standard practice. Whilst the Tribunal cannot conclude with any certainty that he used the exact wording of *'can't be trusted',* it found it more likely that not that Dr Maksoud asked Patient A to check her medication as errors can happen. This the Tribunal concluded amounted to words to the effect of the specific words alleged.

65. The Tribunal therefore found paragraph 1(g) of the Allegation proved.

Paragraph 1(h)(i)(1) and (2)

66. Patient A stated:

> *'Dr Maksoud told me that I could have a visit out of the Hospital with him. I was surprised as I had been on the drip for the duration and I assumed it would come with us, I asked the question and he didn't correct me. It wasn't until we were about to leave that he removed it. I called my mum and told her that Dr Maksoud was taking me out and at the time neither of us thought anything of it. He had always been very friendly with the family*
> *…*
>
> *The first time he took me out of the hospital to visit my horse and then to a restaurant/ hotel in Southwell, although I can't remember the name of the restaurant.*

67. In her oral evidence, Patient A stated that given the time that had elapsed, she could not be sure of the dates or timings of the visit to the stables but said that she was sure it was while she was an inpatient.

68. Dr Maksoud stated:

> *''I did accompany Patient A to the riding stables to see her horse and I took her to lunch at a restaurant in Southwell. However, my recollection is that the visit to the riding stables took place after [Patient A] was discharged following the Second Admission. After Patient A was discharged from the Hospital she accompanied me on a visit to view an investment property that was for sale. After discussing my pension investments, she invited me to see her horse. I remember driving behind her car to the stables where she introduced me to some of her friends there. I recall that I spent around 30 minutes there before I left in my car. Patient A stayed at the stables and explained that she would spend the rest of the afternoon at the stables. As I say, by this time Patient A had been discharged and was not an inpatient at the time. I am confident that my visit to the riding stables took place whilst I was on annual leave during 27 to 29 May 2008 or 28 July to l August 2008 as I would always be working during the day otherwise. I recall that the visit to the riding stables took place during the same annual leave period that Patient A accompanied me to view a two-bedroom*

property for sale with rental potential, but not on the same day. The only occasions that I was off work on leave around this time was between 27 to 29 May 2008 and 28 July to 1 August 2008 and I am sure that the visit to the stables was whilst I was on annual leave on 27 to 29 May 2008 or 28 July to 1 August 2008.'

69. Dr Maksoud stated, in his oral evidence, that he recalled that Patient A had been wearing riding clothing on the visit.

70. Dr Maksoud stated that it was medically inconceivable that he would remove a drip from a patient that had undergone such an operation and was so unwell.

71. The Tribunal considered Witness B's evidence, Patient A's mother. She stated that she could not be sure as to the timings of the visit to the stables, nor could she be sure as to whether Patient A was an inpatient or outpatient at the time of this visit.

72. The Tribunal noted the evidence of Ms I. She stated that:

'I recall on one occasion (while she was still an in-patient) that [Patient A] visited the livery yard, XXX. [Patient A] had been driven down to the farm in a black car, which I think was a black BMW, by a man who wasn't a family member or partner. I didn't recognise the man but recall him being of medium build, not very tall (around 5'9 based on [Patient A's] height sat down as he didn't get out of the car), tanned skin, black hair and well-groomed facial hair. I remember I brought XX over to the car and Patient A stoked her through the window. Patient A and I had a brief chat, I cannot recall what it was about, but the man didn't say anything to me he sat looking forward and smiled. I cannot remember if Patient A introduced him either.'

73. Dr Maksoud stated:

'I do not own and did not own a black car, BMW or otherwise, during the time that Patient A was my patient. It is alleged that the visit to the stables occurred during Patient A's First Admission and at that time I would describe my hair colour as greying. I was also clean shaven and I have never grown facial hair.'

74. The Tribunal noted that Ms I had not identified the person she saw at the stables with Patient A as described in her evidence. It also concluded that, given the time that has elapsed Patient A's timings/dates could not be relied upon even though her recollection of going to the stables with Dr Maksoud at some point was accurate as Dr Maksoud had agreed that he had visited the stables with her. Witness B was also unable to recollect any dates or be sure whether Patient A was an inpatient at the time of the visit to the stables.

75. The Tribunal concluded that Dr Maksoud's medical explanation was clear and credible and found it unlikely that a consultant would remove a drip and take a patient, that had been so unwell after surgery, out of the hospital.

76. The Tribunal therefore found paragraph 1(h)(i)(1) of the Allegation not proved.

77. Patient A's evidence of being taken to a restaurant for lunch was accepted by Dr Maksoud who stated that he had taken Patient A to Southwell. He stated:

> *'Bearing in mind that I had already known Patient A in a professional capacity for at least 5 years and that we had often had lunch or coffee together I did not consider it to be inappropriate for me to take Patient A to lunch whilst she was an inpatient. I thought that it would do her good to have a break from the Hospital environment for a while as I had known Patient A professionally for several years by that time. Patient A was still managing my property investments and I recall discussing this with her during lunch.'*

78. Dr Maksoud stated that this trip out was prior to Patient A's surgery, and that at the time, she was responding well to treatment. He said that his intention had been to make Patient A feel better and less anxious leading up to the surgery.

79. The Tribunal therefore found paragraph 1(h)(i)(2) of the Allegation proved.

Paragraph 1(h)(ii)

80. Patient A stated that on the journey back to the Hospital after her lunch out with Dr Maksoud, they had made an unscheduled detour down a country lane and stopped near a field. Another vehicle then appeared, so Dr Maksoud then drove to a hotel car park. Once stopped, Patient A stated that Dr Maksoud leant in for a kiss. She said that she remembers that this took place at the XXX Hotel. She recalled that at the time she had told Dr Maksoud that she couldn't do that and made reference to his wife to 'brush off' the incident. She also remembers seeing his teeth. Patient A stated that after this had happened, Dr Maksoud drove her back to the Hospital.

81. Dr Maksoud consistently refuted the allegation that he had ever visited the XXX Hotel and that the version of events given by Patient A in regard to him attempting to kiss her never happened. Further, that the XXX Hotel is not located on route between the Hospital and Southwell and would have involved a detour, which he stated would not make sense.

82. The Tribunal noted the evidence of Witness B, Patient A's mother, who stated that Patient A had told her in or around 2011 that Dr Maksoud had once attempted to kiss her. Witness B said that they had not discussed it great detail as she felt that Patient A was embarrassed about the incident.

83. The Tribunal considered Patient A's evidence overall. It was of the view that Patient A held Dr Maksoud in high esteem and bore no malice towards him. The Tribunal found that Patient A had reliably recalled several events that Dr Maksoud agreed had taken place. The Tribunal also found that Patient A was a measured witness who avoided overstating events

and had been as honest as she could be. She had made concessions when appropriate, if she could not remember specific details given the length of time since the events.

84. The Tribunal determined that the incident does not turn on Patient A misinterpreting something innocent that Dr Maksoud had done. Patient A has been clear on the details she could recall and consistent in her recollection of events. The Tribunal did not identify any motive for embellishing or falsifying evidence against a doctor she trusted and relied upon. She had stated that 'he was the only doctor who could treat me'. In her written statement dated 30 July 2019, she stated '*I became worried that only Dr Maksoud could fix me and I remember panicking when he didn't visit me one evening*'. In her document, my story, she stated '*I couldn't believe anyone else would be able to fix me and I would be stuck on my IV drip forever in the hospital'.*

85. Whilst her recollection of dates and timings was imprecise, as identified above she recalled a number of events which Dr Maksoud agreed took place. The Tribunal was therefore satisfied that her recollection of this event was reliable. The Tribunal has had regard to the various statements adduced by Dr Maksoud from young female patients who all stated that Dr Maksoud had never acted inappropriately towards them. Whilst that may be the case, the Tribunal did not consider that evidence undermined the reliability of Patient A's evidence. On the balance of probabilities, it therefore, determined that it is more likely than not that on one occasion Dr Maksoud tried to kiss Patient A in the car park.

86. Accordingly, the Tribunal found paragraph 1(h)(ii) of the Allegation proved.

Paragraph 1(h)(iii)(1) and (2)

87. Patient A stated:

> *'There was another occasion when Dr Maksoud took me out of the hospital, on this trip he told me not to tell the nurses and dropped me off in the carpark and said we should go in separately. I told my parents I was allowed a trip out of the Hospital with him and I didn't purposefully want to lie to the nurses'*

88. Dr Maksoud stated that he had made no secret of the fact that he was taking Patient A to lunch and he had informed a nurse of their plans.

89. The Tribunal considered evidence of Patient A's parents, Witness A and Witness B. They recalled that they had received a telephone call from the Hospital to advise that Patient A was missing, and they had been asked if they (her parents) knew where she was, which they did not.

90. Mr H assisted the Tribunal in explaining the Hospital procedures when a patient leaves their room / the Hospital for any length of time. He stated that this is not against the rules if it is a planned event or for example a member of staff takes a patient for a walk to get them out for some respite. However, there are processes in place which need to be followed.

He said that it can sometimes be a disadvantage of single rooms in a private hospital, as it can become isolating for patients.

91. Mr H stated that making a call to a patient's next of kin would be the last resort to try and locate them, so as not to cause any unnecessary alarm. He stated that, if a patient was considered to be missing, a check with staff / their consultant would be made, followed by a search of the hospital.

92. Mr H also stated that it would be expected that the nursing staff would be notified if a consultant took a patient out of their room for any length of time. He also stated that he was not aware of any consultant having taken an inpatient out of the Hospital in circumstances such as these.

93. The Tribunal determined that the trip out of the Hospital related to when Dr Maksoud took Patient A to lunch at a restaurant in Southwell. The Tribunal was of the view that it was more likely than not that, due to the processes in place at the Hospital, the nursing staff had not been made aware or notified by either Patient A or Dr Maksoud that Patient A was leaving the Hospital. This is supported by the evidence given by Witness A and Witness B, Patient A's parents and next of kin, that they received a call from the Hospital enquiring of Patient A's whereabouts. In addition, the Tribunal also found it likely that nursing staff had not been informed due to the unusual nature of the trip.

94. Dr Maksoud stated in his evidence that, on returning to the Hospital after the trip out with Patient A, he had explained that there are two doors to the Hospital. He said that he would use the laboratory staff entrance as he needed to collect some test result and that was for staff use only. He had advised Patient A to use the main entrance as this was for public use.

95. The Tribunal therefore found paragraph 1(h)(iii)(1) and (2) of the Allegation proved.

Paragraph 2

96. Patient A stated:

> *'When I was discharged Dr Maksoud kept in regular touch with me, I recall him suggesting a trip to the USA with him so he could keep an eye on me. I declined as I knew this was odd and I would mention his wife during times like these.'*

97. Dr Maksoud stated:

> *'I categorically deny allegation [2a]. I did discuss my trips to America with [Patient A], as I also did with other patients, but I did not invite [Patient A] to join me on any of my trips. I travel to America every year to attend a Clinical Endocrinology Course in Boston, Massachusetts, which I consider to be an unbreakable commitment... I always explain to my patients that I have a commitment in America as I am unavailable at this*

time other than for emergencies. I recall that [Patient A] was worried about me going away because she felt so unwell. However, at no time did I suggest that [Patient A] accompany me and at the time [Patient A] was not well enough to travel very far at all.

[Patient A] had been looking into parathyroid hormone replacement therapy to look for a replacement therapy to manager her difficult to control Hypocalcemia. I explained to her that the therapy was not available in the UK in 2008 and said that she could travel to the US for a second opinion.

I did not mean in any way she could come with me. In fact if you look at her own words where she wrote in her documents called 'my story' she stated that she was frightened that I was going to the USA to the AACE meeting and wondered who was going to look after her when I am away. I subsequently referred her to Professor J in London for a second opinion.'

98. The Tribunal also had regarding to the statement of Witness A, Patient A's father, who stated:

'[Patient A] also mentioned that Dr Maksoud spoke about taking her to America. I recall thinking that this might have been a throwaway line although he made regular visits abroad and subsequently was often on extended study leave. [Patient A] remained very vulnerable at this time.'

99. The Tribunal noted that Dr Maksoud discussed his trips to America with Patient A and that he had told her that a possible therapy was only available in America, not the UK. As such, there was a reason why she might want to go to America. The Tribunal also noted Witness A's comments that Patient A had told him of the comment about going to America and that he considered it might have been a 'throwaway line'.

100. Whilst this may have been said as something of a throwaway comment, or as part of a 'jokey' discussion, the Tribunal noted that both Patient A and her father remembered that it was said, and that Dr Maksoud was due to travel/regularly travelled to America. The Tribunal concluded that it was more likely than not that Dr Maksoud did say words to the effect that Patient A should take a trip with him. The Tribunal found this to be credible within the context of their discussions and the personal nature of their relationship.

101. The Tribunal therefore found paragraph 2 of the Allegation proved.

Paragraph 3(a)

102. The Tribunal had regard to whether Dr Maksoud collected Patient A from her home address to take her to the Hospital on her second admission.

103. Dr Maksoud stated:

"Patient A was symptomatic with hypolcalcaemia at the time. She had recently had a test that revealed that she was hypocalcemic. Her calcium was dangerously low and [she] had pins and needles. I recall that I received a message from the Hospital that [Patient A's] General Practitioner had called during the afternoon of 11 April 2008 and was concerned that [Patient A's] calcium level had dropped to 1.65mmol/1. I decided to do a Doctor home visit to check on [Patient A's] clinical status as the result of 1.65mmol/1 indicated a medical emergency...

It was urgent that [Patient A] received treatment and she was not clinically fit to drive given how low her calcium levels were...

[Patient A] had no one that could take her to the Hospital, and as I had known [Patient A] and her family since 2003 I was comfortable providing her with transport to the Hospital in these circumstances. She had significantly low calcium and had severe muscle spasm... I knew how ill she was and I could not refuse to help her when she needed treatment and had no one else around to help her. Furthermore, I had to driver back to the Hospital anyway to sign in the appropriate prescriptions to start the Calcium infusion.'

104. The Tribunal noted Dr Maksoud's statement as to his actions regarding Patient A's admission. It determined that Dr Maksoud had reviewed Patient A and then took her to the Hospital. The Tribunal was of the view that, on the balance of probabilities he agreed to take Patient A to Hospital but that he had not gone specifically to collect her, as referenced in the Allegation. The Tribunal determined that it was clear that there were concerns regarding Patient A's calcium levels, he assessed her and the decision was made to take her to the Hospital. Dr Maksoud provided transport in these circumstances; he had not *'collected'* her from home address in the manner alleged.

105. The Tribunal therefore found paragraph 3(a) of the Allegation not proved.

Paragraph 3(b)

106. The Tribunal had regard to whether Dr Maksoud told Patient A, on the Second Admission, that he had moved another patient from the room number set out in Schedule 3, so that she could stay in the same room again.

107. Patient A stated:

'On the way into the Hospital I had joked whether I would be back in the same room and he told me he had moved a patient... so I could go in it because he said it was my room. I remember being embarrassed at the thought of someone being moved for me.'

108. Dr Maksoud stated:

"I strongly deny allegation [3](b). I have no involvement in the allocation of rooms at the Hospital which is dealt with by Bed Managers... Furthermore, I would not have had the authority to move another patient from one room to another to accommodate one of my inpatients. The Bed Managers have full control of room allocation for patients.'

109. The Tribunal did not consider it likely, given the involvement of 'The Bed Managers', that Dr Maksoud would have, in fact, been able to move patients and allocate one room to a specific patient. However, the Tribunal determined that, on the balance of probabilities, Dr Maksoud had made a comment to Patient A to the effect of what was stated in paragraph 3(b) of the Allegation. Whilst this may have been said as something of a throwaway comment, or as part of a 'jokey' discussion, the Tribunal noted that Patient A remembered that she felt embarrassed that someone was going to be moved. The Tribunal concluded that it was more likely than not that Dr Maksoud did tell Patient A what is alleged on the journey to the Hospital, albeit that he would have only been able to try and get the same room for Patient A rather than having any authority to make sure it happened.

110. The Tribunal therefore found paragraph 3(b) of the Allegation proved.

Paragraph 5

111. The Tribunal had regard to whether Patient A confronted Dr Maksoud about the Attempted Kiss and the Account in April 2011 that he smiled and said there was no proof, or words to that effect.

112. Within her GMC witness statement Patient A said:

'I opened up to my parents about what had happened with Dr Maksoud in 2008 and I confronted Dr Maksoud around this time - mentioning the kiss and email account. He just smiled and said there was no proof.'

113. In her written statement from March 2019, Patient A stated:

'Shortly after being discharged I felt the strength to open up to my parents about the behaviour of Maksoud and I went to visit Maksoud to say he shouldn't have tried to kiss me, had the separate email account. He just smiled and said there was no record of anything.'

114. Dr Maksoud stated:

'I deny allegation [5] that is alleged to have take place in April 2011. I never attempted to kiss [Patient A] or have any relationship with her other than a professional one. The conversation in allegation [5] did not happen. [Patient A] wrote 'my story' on Friday 20 May 2011 and sent me a copy. She did not mention any of these allegations in that

document and it does not make sense that she would write and send me a copy of her story if the conversation had occurred.'

115. The Tribunal referred to its previous finding that there had been an Attempted Kiss. The Tribunal was of the view that Patient A has remained consistent in saying she had spoken to Dr Maksoud in or around April 2011 about the Attempted Kiss and the setting up of the email account. The Tribunal considered it to be more likely than not that Patient A would challenge the inappropriate behaviour in 2011 and it has heard that it had played on her mind. It found Patient A's account to be credible, was consistent with events and for the reasons set out above regarding the absence of a motive to falsify evidence, accepted her evidence as reliable in relation to challenging him on the two issues.

116. The Tribunal was conscious that Patient A continued to rely on Dr Maksoud for medical treatment, given her ongoing health issues, and did not find that this undermined her credibility.

117. The Tribunal determined that, on the balance of probabilities, Patient A did confront Dr Maksoud about the Attempted Kiss and the Account and he said there was no proof or no record of anything. The Tribunal therefore found paragraph 5 of the Allegation proved.

118. The Tribunal therefore found paragraph 5 of the Allegation proved.

Paragraph 7

119. The Tribunal had regard to whether Dr Maksoud's action, as described at paragraph 1(h)(ii) of the Allegation, the Attempted Kiss, was carried out without Patient A's consent.

120. Dr Maksoud stated:

'I deny allegation [7]. The "Attempted Kiss" did not happen. Furthermore, I would never act without the consent of a patient or anyone else whether in a personal or professional capacity.'

121. Patient A stated:

'I remember this was XXX Hotel and he leant over and tried to kiss me. I think I just mumbled that I couldn't do that. I just remember his teeth. We went back to the Hospital after this.'

And

'On the way back he stopped near a field (I think a car came though) so moved to a hotel car park near the hospital and leant in for a kiss. I brushed it off!'

122. The Tribunal referred to its previous finding that there had been an Attempted Kiss, which Dr Maksoud does not accept happened. The Tribunal was of the view that Patient A has remained consistent in her account of the Attempted Kiss and with her comments that she 'couldn't do it' and 'brushed it off!'. The Tribunal considered it to be more likely than not that Dr Maksoud had attempted to kiss Patient A and concluded that her stated response to it was both credible and reliable. As such the Tribunal concluded that she was not consenting to this conduct. Again, it found Patient A's account to be reliable for the reasons set out above.

123. The Tribunal determined that, on the balance of probabilities, Dr Maksoud's action, in terms of the Attempted Kiss, was carried out without Patient A's consent. The Tribunal therefore found paragraph 7 of the Allegation proved.

Paragraph 8(a)

124. The Tribunal had regard to whether Dr Maksoud's actions, as described at paragraphs 1 to 4 of the Allegation, were for the purpose of pursing an inappropriate personal relationship with Patient A.

125. The Tribunal makes no such finding in respect of paragraphs 1(a), 1(b), 1(f), 1(c)(iv) 4(a) and 4(b) found proved. The Tribunal did not conclude that Dr Maksoud's conduct in respect of these allegations was carried out to pursue an inappropriate personal relationship with Patient A but was not inconsistent with acceptable parameters of behaviour and recognised clinical practice.

126. In terms of paragraphs 1(e)(i) and 1(e)(ii) of the Allegation, the Tribunal was satisfied that, given the routine nature of the contents of the emails and the familiar language he typically used, these emails were not inappropriate. Similarly, it found that paragraph 1(f) of the Allegation did not amount to inappropriate behaviour. The Tribunal was of the view that it was not inappropriate for a doctor to encourage a patient to visit him in his office at the Hospital. Further, in terms of paragraph 4 of the Allegation, the Tribunal did not find this to be evidence of inappropriate behaviour, rather it was typical of how he routinely conducted his practice.

127. The Tribunal had regard to the matters found proved or admitted in respect of paragraphs 1 to 4 of the Allegation. It concluded that the matters found proved demonstrate that Dr Maksoud was seeking to nurture a personal and overfamiliar relationship with Patient A. Whilst the Tribunal noted that Dr Maksoud was typically attentive, caring, friendly and tactile (including holding patients' hands), he had paid her particular attention that he had not shown to other patients. Patient A was a vulnerable and dependent patient at the relevant time. The Tribunal has found proved that Dr Maksoud took Patient A out of the Hospital without informing nursing staff on one occasion, and he also instigated the setting up of a private email account. This the Tribunal concluded was demonstrative of an element of secrecy in their relationship.

128. The Tribunal determined that Dr Maksoud's actions in relation to paragraphs 1(c)(iii) and 1(d) of the Allegation were carried out for the purpose of pursuing an inappropriate personal relationship with Patient A. Those allegations relate to inappropriate comments made and the creation of a private email account.

129. In terms of paragraphs 1(g) and 1(h) of the Allegation, Dr Maksoud had asked Patient A to not mention that he had taken her out of the hospital and also that he suggested that he and Patient A use different entrances. In all the circumstances, it concluded that these actions were done to conceal an inappropriate personal relationship. The Tribunal reminded itself of its findings regarding the Attempted Kiss and found this was also demonstrative of evidence of pursuing an overfamiliar, inappropriately close personal relationship with Patient A.

130. In terms of paragraphs 2 and 3(b) of the Allegation, the Tribunal concluded that this was also evidence of pursuing and nurturing an inappropriate relationship. The suggestion of a trip to America, however flippantly meant, and the suggestion that he had moved a patient so she could have the same room as previously, amounted to conduct which was on the balance of probabilities, for the purpose of pursuing an inappropriate personal relationship.

131. The Tribunal was satisfied that the personal relationship was inappropriate because:

- Patient A was a vulnerable patient;
- There was a significant imbalance of power evidenced by Patient A's perceived dependence on Dr Maksoud for her medical care and;
- Dr Maksoud's conduct breached the GMC's guidance on 'Maintaining Boundaries' in force at the time which stated:
    - 'In order to maintain professional boundaries, and the trust of patients and the public, you must not establish or pursue a sexual or improper emotional relationship with a patient';
    - 'Trust is a critical component in the doctor-patient relationship: patients must be able to trust doctors with their lives and health in most successful doctor-patient relationships a professional boundary exists between doctor and patient. If this boundary is breached, this can undermine the patient's trust in their doctor, as well as the publics trust in the medical profession'.

132. The Tribunal therefore found paragraph 8(a) of the Allegation proved in respect of paragraphs 1(c)(iii), 1(d), 1(g), 1(h)(i)2, 1(h)(ii), 1(h)(iii) 1 and 2, paragraph 2 and paragraph 3(b).

Paragraph 8(b)

133. As previously discussed, the Tribunal has found that elements of Dr Maksoud's actions were for the purpose of pursuing an inappropriate relationship with Patient A. The Tribunal then went on to determine if any of the inappropriate behaviour had been sexually motivated.

134. The Tribunal referred to its previous finding that there had been an Attempted Kiss. The Tribunal concluded that this had not been a kiss of the sort that might have been given when greeting or saying goodbye to a friend. It bore in mind the events leading up to the Attempted Kiss and found that there had been a deliberate detour to a hotel car park. The Tribunal concluded that it was a proper inference to draw that the Attempted Kiss was intended to be a non-platonic act of intimacy.

135. The Tribunal concluded that Dr Maksoud's actions represented a pattern of behaviour in trying to pursue a personal inappropriate relationship with Patient A. It determined that Dr Maksoud's conduct was sexually motivated in terms of the Attempted Kiss. The Tribunal concluded that the sexualised nature of the Attempted Kiss was such that in addition to it being evidence of an inappropriate relationship with a vulnerable patient, the nature of the act was also sexually motivated.

136. The Tribunal therefore found paragraph 8(b) of the Allegation proved in respect of paragraph 1(h)(ii) only.

137. The Tribunal was not persuaded that the burden of proof had been met by the GMC with regard to the remainder of the inappropriate conduct found proved and, as such, was unable to conclude that these actions were sexually motivated as distinct from being merely in pursuance of an inappropriate personal relationship.

The Tribunal's Overall Determination on the Facts

138. The Tribunal has determined the facts as follows:

1. Between 17 March and April 2008 ('the First Admission') Patient A was admitted to The Park Hospital ('the Hospital') and you:

a. visited Patient A at least once daily; **Admitted and found proved**

b. on one or more occasion held Patient A's hand when you visited her; **Admitted and found proved**

c. told Patient A that:

i. she did not really want to be involved with someone with an ex-wife and two young children; **Not proved**

ii. you had not responded to one of her emails until the following day because she had a male visitor in the afternoon; **Not proved**

iii. there were cameras in her room, when Patient A had asked you how you knew that she had a male visitor; **Determined and found proved**

iv. you were sleeping at the Hospital because you were worried about her; **Determined and found proved**

v. you wanted to buy her a new watch as a present when her old watch stopped working; **Not proved**

vi. you were not having a good relationship with your wife and were separating; **Not proved**

or words to that effect;

d. inappropriately set up a personal email account using the email address set out in Schedule 1 ('the Account'), specifically so that you and Patient A could communicate with each other; **Determined and found proved**

e. sent one or more emails ~~from~~ to the Account to Patient A which:

i. addressed Patient A using the words set out in Schedule 2, or words to that effect; **Admitted and found proved**

ii. asked Patient A:

1. how she was; **Admitted and found proved**

2. if she slept well; **Admitted and found proved**

or words to that effect;

f. encouraged Patient A to visit you in your office at the Hospital; **Admitted and found proved**

g. advised Patient A to check the medication the nurses were giving her as they could not be trusted, or words to that effect; **Determined and found proved**

h. on one or more occasion took Patient A out of the Hospital and:

i. took her to:

1. visit her horse at the riding stables; **Not proved**

2. a restaurant/hotel in Southwell for lunch; **Determined and found proved**

ii. on one occasion tried to kiss Patient A in the car park of the XXX Hotel ('the Attempted Kiss'); **Determined and found proved**

iii. on one occasion told Patient A:

1. not to tell the nurses when you took her out of the Hospital; **Determined and found proved**

2. that you should go back into the Hospital separately; **Determined and found proved**

or words to that effect.

2. After Patient A was discharged from Hospital following the First Admission, you suggested that she take a trip to America with you, so you could keep an eye on her, or words to that effect. **Determined and found proved**

3. On or around 11 April 2008 ('the Second Admission') Patient A was readmitted to the Hospital and you:

a. collected her from her home address to take her to the Hospital; **Not proved**

b. told Patient A that you had moved another patient from the room number set out in Schedule 3, so that she could stay in the same room again. **Determined and found proved**

4. After Patient A was discharged from Hospital following the Second Admission, on one or more occasion you told her to come to your clinic for appointments and you:

a. told Patient A to wait nearby until you confirmed she should come to the Hospital; **Admitted and found proved**

b. on one or more occasion made Patient A wait until after 22:00. **Admitted and found proved**

5. In or around April 2011, Patient A confronted you about the Attempted Kiss and the Account and you smiled and said that there was no proof, or words to that effect. **Determined and found proved**

6. At all material times Patient A was vulnerable due to her:

a. physical health; **Admitted and found proved**

b. mental health; **Admitted and found proved**

7. Your action as described at paragraph 1hii was carried out without Patient A's consent. **Determined and found proved**

8. Your actions as described at paragraphs 1 to 4 were:

a. for the purpose of pursuing an inappropriate personal relationship with Patient A; **Determined and found proved** in respect of paragraphs 1(c)(iii), 1(d), 1(g), 1(h)(i)2, 1(h)(ii), 1(h)(iii) 1 and 2, paragraph 2 and paragraph 3(b).

Not proved in respect of paragraphs 1(a), 1(b), 1(c)(iv), 1(e)(i), 1(e)(ii), 1(f), 4(a) and 4(b)

b. sexually motivated. **Determined and found proved in respect of paragraph 1(h)(ii)**

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

Determination on Impairment - 10/11/2021

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 Maksoud's fitness to practise is impaired by reason of misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.

3. Dr Maksoud provided his own supplementary witness statement dated 4 November 2021, and also gave oral evidence at the hearing.

Documentary Evidence

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

- Professional Boundaries Audit Form
- 68 Patient Satisfaction responses
- Professional Development documents including:

- CPD record for 2020/2021
- CPD certificates
- Clinic professional boundaries in practice audit form

5. The Tribunal also received 21 testimonials written after this Tribunal's findings of facts from patients and professional colleagues, all of which it has read. These testimonials were provided by the patients and colleagues in the full knowledge of the Tribunal's findings of facts in relation to the Allegation.

Summary of Dr Maksoud's Evidence

Statement dated 4 November 2021

6. In his supplemental statement, Dr Maksoud set out his reflections and thoughts in relation to the actions which led to the Allegation, along with his focus on remediation. He also outlined his current working arrangements, other professional commitments, and the personal impact should he be unable to practise.

Oral evidence

7. In his oral evidence, Dr Maksoud repeatedly expressed his regret and remorse in relation to conducting an unprofessional relationship with Patient A.

8. Whilst Dr Maksoud accepted that the Tribunal had found some of the paragraphs proved that he had denied at the facts stage, he further recognised that he had engaged in a seriously unprofessional personal relationship with a vulnerable patient. He maintained that his conduct was not sexually motivated and did not accept the paragraphs of the Allegation that he had denied at that stage.

9. Dr Maksoud told the Tribunal that he had made a terrible mistake and that he wished he knew then what he knew now. He stated that he *'grossly regretted'* his conduct. He had let down not only himself but his family, patients, and colleagues. Dr Maksoud understood that his behaviour was out of character and he had learned much since 2008.

10. Dr Maksoud stated that his previous professional relationship with Patient A led to a blurring of boundaries when she became his patient. Dr Maksoud recognised that he had a better understanding of his professional obligations after attending 'Professional Boundaries in Practice' courses in March 2020, and March and September of 2021. He stated that the courses drew his awareness to what had gone wrong in this case and had highlighted his failings. In these courses, Dr Maksoud learned about the power differential of the doctor/patient relationship and that it is the doctor's responsibility to set boundaries with their patients. He also realised that he would need to go back to his core principles and learn how to strengthen them.

11. Dr Maksoud told the Tribunal that he wished he'd attended these courses before. He accepted that he still has things to learn and has continued to learn. Dr Maksoud now attended such courses regularly and has promoted them to colleagues.

12. Dr Maksoud said he had reflected upon other matters such as the setting up of an email address specifically to communicate with Patient A. At the time he had set this up due to her demanding nature, but he was now able to see why this was inappropriate.

13. In relation to advising Patient A to checking medication with the nurses on the ward, Dr Maksoud told the Tribunal that while he still denies that he told Patient A that the nurses could not be trusted, he was able to see that teamwork is important and that it was important not to undermine trust in other members of staff.

14. Dr Maksoud said that as well as attending relevant courses, he has put other measures into place to ensure there would not be any repetition of this incident. Dr Maksoud now audits every interaction with his patients, both male and female, and discusses these with a mentor every two weeks.

15. Dr Maksoud told the Tribunal that he would like to do more such courses and continue to have his behaviour assessed by his mentor.

Submissions

On behalf of the GMC

16. Mr Walker submitted that Dr Maksoud's actions amounted to serious misconduct and that his fitness to practise is currently impaired by reason of his misconduct. Mr Walker submitted that Dr Maksoud's misconduct fell seriously below the standard to be expected from a medical practitioner and reminded the Tribunal of the overarching objective of the GMC set out in section 1 of the Medical Act 1983 (as amended):

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

17. Mr Walker reminded the Tribunal of the facts found proved, in that Dr Maksoud had inappropriately created an email account to communicate with Patient A, he tried to kiss Patient A without her consent and that this was sexually motivated behaviour to a vulnerable patient. He submitted that Dr Maksoud's actions represented a number of serious departures from Good Medical Practice. In particular, he highlighted paragraphs 53 and 65 in

Good Medical Practice (2013 edition) (GMP) that he submitted were engaged in Dr Maksoud's case which state:

> *'53. You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.*
>
> *65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

and paragraphs 4, 11 and 15 of The GMC guidance *'Maintaining a professional boundary between you and your patient'* (April 2013), which state:

> *'4. You must not pursue a sexual or improper emotional relationship with a current patient.*
>
> *11. Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.*
>
> *15. If you are not sure whether you are (or could be seen to be) abusing your professional position, you should seek advice about your situation from an impartial colleague, your defence body or your medical association.'*

18. Turning to the issue of current impairment, Mr Walker submitted that Dr Maksoud has not demonstrated full insight as he has not taken full responsibility for his actions. Mr Walker submitted there was a significant imbalance of power and essential boundaries were not respected. Mr Walker submitted Dr Maksoud's actions would also be considered deplorable by his fellow practitioners and consequently have brought the profession into disrepute. Mr Walker submitted that a finding of impairment was necessary to satisfy the overarching objective on two limbs: promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

Submissions on behalf of Dr Maksoud

19. Mr Lownds submitted that Dr Maksoud accepts that his actions amounted to serious misconduct and that there was a serious power imbalance between himself and a vulnerable patient. Mr Lownds added that while this misconduct is serious, it was important for the Tribunal to apply measure and perspective in its deliberations.

20. Turning to the issue of the Tribunal's determination that Dr Maksoud's conduct was sexually motivated, Mr Lownds reminded the Tribunal that Dr Maksoud maintained that there had been neither a sexual relationship nor any actual intimacy. Dr Maksoud's actions fell towards the bottom end of imagined sexually motivated conduct and Mr Lownds asked that the Tribunal apply that as the conduct it was looking to assess.

21. Mr Lownds submitted that 13 years have elapsed since this unique period of conduct that was out of character and in relation to only one patient. Since then, Dr Maksoud has not been subject to an interim order and has continued to work full time with no repetition of his behaviour. There was no risk to patient safety and no suggestion of any continuing risk.

22. Mr Lownds drew the Tribunal's attention to the substantial number of testimonials provided by patients and colleagues who had been approached again to provide statements after being sent the Tribunal's determination on the facts. The testimonials spoke of a highly professional doctor and were highly relevant to the issues of honesty and appropriate conduct. 20 previous patients had written back that they maintained the previous assessments they had provided before the facts stage, highlighting impressive support for Dr Maksoud who they considered to be an excellent doctor.

23. Mr Lownds drew the Tribunal's attention to Dr Maksoud's written statement dated 4 November 2021 and his oral evidence, in which he spoke of his admissions and his regrets, for example the setting up of the email account and taking Patient A out for lunch. Dr Maksoud accepted that these were serious misjudgements and set out his insight in detail. He had made efforts to reflect within the matters he accepted, and to address any conduct deficiencies.

24. Mr Lownds submitted that the real issue in this case was purely one of public confidence and whether it would be undermined if a finding of impairment were not made.

25. Mr Lownds concluded his submissions by stating that an ordinary member of the public who was fully aware of the matters from 13 years ago, and who had access to all the evidence pointing to Dr Maksoud's insight, remorse and remediation, would not be shocked if the Dr Maksoud's fitness to practise was found to be not impaired. This, he submitted, was evidenced by the several patient testimonials provided.

The Relevant Legal Principles

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

27. 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 could lead to a finding of impairment.

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

29. The Tribunal took into account the case of *Yeong v GMC [2009] EWHC 1923 (Admin)*, where the court held in cases involving a sexual relationship with a patient, the balance can be expected to fall on the side of maintaining public confidence and making a finding of impairment.

30. The Tribunal also had regard to the case of *R (Remedy UK Ltd v GMC [2010] EWHC 1245 (Admin),* in which Elias LJ said:

> *'Misconduct is of two principal kinds. First, it may involve sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise. Second, it can involve conduct of morally culpable or otherwise disgraceful kind which may, and often will, occur outwith the course of professional practice, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.'*

31. The LQC directed the Tribunal's attention to further relevant case law regarding misconduct, including:

- *Roylance v GMC (No 2)* [2000] 1 AC 311, Lord Clyde at 331B – 334B:

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

- Collins J in the case of in *Nandi v General Medical Council* [2004] EWHC 2317 (Admin):

  'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners...'

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

> *'a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

...'

33. The Tribunal also took into account the guidance of Justice Cox set out in *CHRE V NMC and Paula Grant [2011] EWHC 927 (Admin),* specifically paragraph 74 which states:

'*74. In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

The Tribunal's Determination on Impairment

Misconduct

34. The Tribunal first considered whether the conduct found proved in the case of Dr Maksoud amounted to misconduct.

35. The Tribunal took into consideration that as the index incident had occurred in 2008, and the subsequent confrontation in 2011, any reference to GMP would need to be made to the 2006 version, as this was the version in force at the time. Bearing this in mind, the Tribunal considered paragraphs 32, 47, and 57 of GMP (2006), which state:

'32. You must not use your professional position to establish or pursue a sexual or improper emotional relationship with a patient or someone close to them.

47. You must not make malicious and unfounded criticisms of colleagues that may undermine patients' trust in the care or treatment they receive, or in the judgement of those treating them.

57. You must make sure that your conduct at all times justifies your patients' trust in you and the public's trust in the profession.'

36. The Tribunal found that Dr Maksoud's misconduct, namely his inappropriate relationship with Patient A, his sexually motivated behaviour in attempting to kiss her and the undermining of trust in the nurses on the ward represented serious departures from GMP. Therefore, the Tribunal concluded that Dr Maksoud's conduct fell seriously short of the standards of conduct to be expected of a doctor and therefore amounted to misconduct.

Current Impairment

37. The Tribunal having found that the facts found proved amounted to misconduct, then went on to examine whether there were grounds for finding Dr Maksoud's fitness to practise to be currently impaired.

38. The Tribunal considered the issue of the attempted sexually motivated kiss. Whilst such behaviour represented a serious falling short of the standard expected of a doctor, the Tribunal noted that there had been a pre-existing personal/business relationship between Dr Maksoud and Patient A long before the attempted kiss. This led to a clear blurring of the boundaries in their subsequent doctor/patient relationship. Whilst not excusing this behaviour, the Tribunal was able to put some context to the 'attempted kiss'. The Tribunal note that the attempted kiss happened on a single occasion some 13 years ago. There were no further attempts by Dr Maksoud to kiss or pursue a physical relationship. On the scale of sexually motivated behaviour, the Tribunal considered this incident to be at the lower end of the scale of seriousness for sexually motivated behaviour.

39. The Tribunal considered Mr Walker's submission that Dr Maksoud still denied certain elements of the Allegation and therefore insight and remediation could not be complete. However, the Tribunal noted that Dr Maksoud had demonstrated genuine and heartfelt remorse and shame at his actions in relation to Patient A. It accepted that he had demonstrated insight into the inappropriate nature of his misconduct and that his insight had fully developed throughout the course of the last 13 years.

40. The Tribunal was impressed with the steps that Dr Maksoud has taken to remediate. These included creating an audit trail of every interaction with his patients, fortnightly meetings with his mentor to discuss these interactions and self-assess his behaviours, and attending courses relating to professional boundaries. The Tribunal was satisfied that Dr Maksoud is now fully aware of the importance of maintaining professional boundaries, noting that his isolated behaviour had not been repeated over the last 13 years.

41. The Tribunal had regard to the high number of exemplary testimonials from patients and colleagues who were aware of the Tribunal's findings at the facts stage and have not changed their views since their previous testimonials that Dr Maksoud was a kind, caring and competent doctor.

42. The Tribunal took note of the fact that 13 years have elapsed since the incident took place and was of the view that this episode was an isolated incident in Dr Maksoud's career. While there had been the incident in 2011 involving a confrontation between Patient A and Dr Maksoud, this was not a repetition of Dr Maksoud's behaviour in 2008 and the Tribunal determined, that in the circumstances, the risk of repetition was negligible.

43. The Tribunal considered the overarching objective and whether public confidence in the profession would be undermined if a finding of impairment was not made. The Tribunal

was of the view that a reasonable and well-informed member of the public and members of the medical profession would not expect a finding of impairment to be made in this case in all the circumstances.

44. Therefore, the Tribunal concluded that Dr Maksoud's fitness to practise is not impaired by reason of his misconduct.

Determination on Warning - 10/11/2021

1. As the Tribunal determined that Dr Maksoud's fitness to practise was not impaired, it went on to consider whether, in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

2. On behalf of the GMC, Mr Walker urged the Tribunal to issue a warning in this case. He submitted that, given the findings that Dr Maksoud's conduct fell significantly short of the standards set out in *Good Medical Practice*, the declaratory effect of a warning is of importance in this case. He submitted that Dr Maksoud's misconduct requires a formal response given that there were findings of sexual misconduct.

3. Mr Walker went on to submit that a warning would also act as an important protective measure, reminding Dr Maksoud of the seriousness with which even historic misconduct needs to be treated. He submitted that, given that a warning would be recorded on the Medical Register, it was important to show that, in the event of repetition of his misconduct, action on his registration would be likely.

4. On behalf of Dr Maksoud, Mr Lownds did not oppose the application for the imposition of a warning.

The Tribunal's Determination on Warning

5. The Tribunal carefully considered whether it would be appropriate and proportionate to issue a warning to Dr Maksoud and took into account the GMC's *Guidance on warnings*.

6. The Tribunal was of the view that there had been breaches of the expected standards by Dr Maksoud which were in conflict with the requirements of *Good Medical Practice* (2006 edition) ('GMP'). The Tribunal has already found that Dr Maksoud's misconduct, namely his inappropriate relationship with Patient A, his sexually motivated behaviour in attempting to kiss her and the undermining of trust in the nurses on the ward represented serious departures from GMP.

7. The Tribunal considered it was appropriate to mark the level of departure from the required standards and to issue a warning to Dr Maksoud regarding his future conduct, notwithstanding the historic nature of the facts found proved.

8. This warning will have the effect of highlighting to the public and the wider profession that such misconduct is unacceptable.

9. The Tribunal therefore determined to impose the following warning on Dr Maksoud's registration:

'*Dr Maksoud,*

On various dates between 17 March and April 2008, you pursued an inappropriate personal relationship with a vulnerable patient. You also attempted to kiss that patient without her consent which, the Tribunal determined, was sexually motivated. This conduct was assessed as below the required standard of a practising doctor and a significant departure from Good Medical Practice (2006 edition).

This conduct does not meet the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in Good Medical Practice The following paragraphs are particularly relevant:

> *32. You must not use your professional position to establish or pursue a sexual or improper emotional relationship with a patient or someone close to them.*
>
> *47. You must not make malicious and unfounded criticisms of colleagues that may undermine patients' trust in the care or treatment they receive, or in the judgement of those treating them.*
>
> *57. You must make sure that your conduct at all times justifies your patients' trust in you and the public's trust in the profession.*

Whilst this failing in itself is not so serious as to require any restriction on your registration, it is necessary in response to issue this formal warning.

This warning will be published on the medical register in line with our publication and disclosure policy, which can be found at www.gmc-uk.org/disclosurepolicy.'

Confirmed
Date 10 November 2021 Mr Julian Weinberg, Chair

ANNEX A – 26/04/2021

Application for the admission of evidence

1. On 26 April 2021 Ms Barlow, GMC Counsel, made an application for the admission of the evidence of Mr G in accordance with Rule 34 of the Rules. Rule 34(1) states:

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

2. The evidence takes the form of a witness statement from Mr G dated 8 April 2021, which was served on Dr Maksoud's legal representatives on 9 April 2021. The statement was served approximately seven weeks after the expiration of the extended deadline for the admission of GMC evidence.

GMC Submissions

3. Ms Barlow acknowledged that the deadline for the admission of GMC evidence had passed but that new evidence had only come to light after the deadline. She stated that, on 2 March 2021, Patient A had notified the GMC that she might have disclosed inappropriate behaviour by Dr Maksoud to her hypnotherapist in 2009. Ms Barlow stated that this was the first time that Patient A made the GMC aware of this. Ms Barlow stated that the GMC contacted the hypnotherapist, Mr G, and a statement was obtained and served as soon as reasonably practicable.

4. Ms Barlow submitted that the evidence of Mr G deals with a relevant disclosure made to him in 2009 by Patient A. She stated that the allegations against Dr Maksoud are historic and no formal complaint was made until 2018 by Patient A. Ms Barlow submitted that the evidence of Mr G should be admitted, even at this late stage, as it was in the interests of justice. She submitted that the evidence was directly relevant to issues of fabrication and the accuracy of the Allegation and came from a professional who was treating Patient A shortly after the material time.

5. Ms Barlow stated that there was no prejudice to Dr Maksoud in the admission of this evidence at this stage, over and above the prejudice that inevitably arises as a result of admitting probative and relevant evidence.

Submissions on Dr Maksoud's behalf

6. Mr Lownds, Counsel on Dr Maksoud's behalf, opposed the GMC's application. He stated that Mr G's statement had been served seven weeks after the expiration of the extended deadline for the admission of GMC evidence and only two weeks before the start of this full hearing.

7. Mr Lownds referred to paragraph 28 of Patient A's main statement dated 30 July 2019 in which she discussed the general issue of earlier complaints made by her at that time. Mr Lownds submitted that, had the issue been more thoroughly discussed with Patient A at that stage, Mr G's evidence would have been sought, obtained and served in accordance with the directed timetable.

8. Mr Lownds stated that Mr G was unable to produce any medical, administrative or professional records of any case. He submitted that Mr G's evidence was entirely from his memory, was weak and lacked probity. Mr Lownds stated that Mr G was extremely vague regarding the date of his contact with Patient A, the duration of their period of treatment and the relevant details of their conversation or conversations.

9. Mr Lownds submitted that it was not in the interests of justice to permit the GMC to rely upon extremely weak evidence served late, that could have been identified and obtained by the GMC at a much earlier stage.

Tribunal's Decision

10. The Tribunal had regard to Rule 34(1) of the Rules and the submissions from both parties.

11. The Tribunal noted the circumstances in which the evidence of Mr G came to light at the late stage, as detailed by Ms Barlow. Whilst the Tribunal recognises that this was certainly not an ideal situation, it did not believe it would have been reasonable to expect the information before or for the GMC to able to obtain it earlier, as the GMC did not know about it.

12. The Tribunal determined that the evidence of Mr G was relevant to the Allegation against Dr Maksoud and represented a material change in circumstances.

13. The Tribunal determined to grant Ms Barlow's application for the admission of the evidence of Mr G. It acknowledged that the admission of this evidence came at a later stage than was ideal but concluded that it was both relevant to this case and in the interests of justice for it to be admitted.

14. The question of what weight to attach to this evidence will be a matter for the Tribunal's consideration once it has assessed all the evidence when it deliberates to consider the facts stage of the hearing.

Schedule 1
XXX

Schedule 2
The lovely lady in room 69

Schedule 3
Room number 69