PUBLIC RECORD

Dates: 09/02/2026 - 03/03/2026

Doctor:	Dr Khush Bakhat Muhammad ZEESHAN
GMC reference number:	7096504
Primary medical qualification:	MBBS 2004 University of Health Sciences Lahore - Quaid-E-Azam Medical College

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

Summary of outcome

Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Stephen Gowland
Lay Tribunal Member:	Ms Sally Allbeury
Registrant Tribunal Member:	Dr John Moriarty

Tribunal Clerk:	Mrs Jennifer Ireland (09/02/26 to 13/02/26) Mr Sewa Singh (16/02/26 to 03/03/26)

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Ben Rich, Counsel, instructed by the MDDUS
GMC Representative:	Mr Christopher Rose, Counsel

Attendance of Press / Public

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

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 - 26/02/2026

Background

1. Dr Zeeshan qualified in 2004 in Pakistan. After completing postgraduate training between 2008 and 2011, Dr Zeeshan moved to Saudi Arabia, where he practised until October 2019. Dr Zeeshan moved to the UK in October 2019, since when he has been practising as a speciality doctor in Accident and Emergency at the Royal Edward Infirmary ('the Hospital') at Wrightington, Wigan and Leigh NHS Trust ('the Trust').

2. The allegations that have led to Dr Zeeshan's hearing relate to his conduct. It is alleged by the General Medical Council ('GMC') that, on 20 February 2021, Dr Zeeshan agreed to examine the armpit area of Ms A, a colleague. It is alleged that, during the examination, Dr Zeeshan pressed the palms of his hands against Ms A's breasts and nipples, placed his fingers just above her areolas and on one or more occasions, lifted both of her breasts upwards. It is alleged that Dr Zeeshan failed to explain that he intended to undertake those actions, and/or seek prior consent from Ms A to do so. It is alleged that Dr Zeeshan's actions were sexually motivated.

3. On 13 March 2021, Dr Zeeshan was working with Ms B, a colleague, when she complained of back pain XXX. It is alleged that Dr Zeeshan offered to conduct a manipulation of Ms B's back ('the Treatment') and failed to obtain adequate informed consent as he did not discuss with Ms B the risks and benefits of the Treatment, a diagnosis, and/or a proposed treatment plan.

4. Dr Zeeshan is alleged to have massaged Ms B's legs, thighs and arms, before climbing onto the bed and straddling Ms B's bottom to massage her back. Dr Zeeshan is then alleged to have moved lower down the body to straddle Ms B's legs, where he proceeded to massage her bottom and her upper legs, while rubbing his penis against her bottom and legs. It is alleged that Dr Zeeshan put his hands up the back of Ms B's XXX top and continued to massage her back and shoulders. It is further alleged that Dr Zeeshan climbed off the bed and

continued to massage Ms B's back and bottom over her uniform. It is alleged that Dr Zeeshan's actions were undertaken without Ms B's consent, were not clinically indicated and were sexually motivated.

5. The initial concerns were raised with the GMC by Ms B.

The Outcome of Applications made during the Facts Stage

6. Ms A and Ms B were treated as vulnerable witnesses and anonymised. The Tribunal granted the GMC's application for anonymity, made pursuant to Rule 35(4) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), for three XXX relatives (Mr C, Mr D and Ms E), throughout the proceedings. The application was made on the basis that the allegations are sexual in nature, and the privacy of the complainants should be preserved, and the identities of Mr C, Mr D and Ms E should be anonymised to prevent jigsaw identification. The Tribunal determined that the application caused no injustice or prejudice to either party in these proceedings. As the application was unopposed, the Tribunal did not consider it was necessary to produce a separate determination.

7. The Tribunal granted the GMC's application, made pursuant to Rule 34(1) of the Rules, for Mr C's witness statement to the police to be admitted as hearsay evidence, the reason being that the GMC had been unable to make contact with him to request his attendance to give evidence at this hearing. The application was unopposed. The Tribunal determined that the application caused no injustice or prejudice to Dr Zeeshan. It remained a matter for the Tribunal as to what weight to place on Mr C's witness statement in due course. As the application was unopposed, the Tribunal did not consider it was necessary to produce a separate determination.

8. The Tribunal granted an application for a witness, Ms I, to be called on behalf of Dr Zeeshan. The Tribunal granted, in accordance with Rule 34(13) of the Rules, for Ms I's oral evidence to be received by video link. The Tribunal determined that the application caused no injustice or prejudice to the GMC. As the application was unopposed, the Tribunal did not consider it was necessary to produce a separate determination.

The Allegation and the Doctor's Response

9. The Allegation made against Dr Zeeshan is as follows:

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

Ms A

1. On 20 February 2021 you agreed to examine the armpit area of your colleague, Ms A and whilst doing so:

    a. you touched Ms A's breasts in that:

i. you pressed the palms of your hands against Ms A's:

1) breasts; To be determined

2) nipples; To be determined

ii. you placed your fingers just above Ms A's areolas; To be determined

b. on one or more occasion you lifted both of Ms A's breasts upwards. To be determined

2. You failed to:

a. explain to Ms A that you intended to undertake the actions as set out in paragraph 1 above; To be determined

b. seek prior consent from Ms A to carry out the actions as set out in paragraph 1 above. To be determined

3. Your actions as set out at paragraph 1-2 above were sexually motivated. To be determined

Ms B

4. On 13 March 2021 you offered to treat a colleague, Ms B, by conducting a manipulation of Ms B's back ('the Treatment') and you failed to obtain adequate informed consent in that you did not discuss with Ms B:

a. the risks/benefits of the Treatment; Admitted and found proved

b. a diagnosis; Admitted and found proved

c. a proposed treatment plan. Admitted and found proved

5. During the course of the Treatment:

a. you used your hands to massage/rub Ms B's:

i. legs; To be determined

ii. thighs; To be determined

iii. arms; To be determined

b. you climbed up onto the bed and, whilst sat on top of Ms B's bottom with your legs straddled at either side of Ms B, you massaged/rubbed Ms B's back over the top of Ms B's uniform; To be determined

c. you moved yourself further down Ms B's body, so that you were sat straddling the top of Ms B's legs, and you:

    i. rubbed your penis against:

        1) Ms B's bottom; To be determined

        2) the top of Ms B's legs; To be determined

    ii. rubbed/massaged:

        1) Ms B's bottom; To be determined

        2) the top of Ms B's legs; To be determined

d. whilst sat in the position as described at paragraph 5c above, you moved your hands up Ms B's XXX top, onto her skin and you:

    i. continued to massage/rub Ms B's back; To be determined

    ii. massaged Ms B's shoulders; To be determined

e. you climbed off the bed and you:

    i. continued massaging Ms B's back over the top of Ms B's uniform; To be determined

    ii. massaged/rubbed Ms B's bottom; To be determined

f. following your actions as described at paragraph 5e above, you asked Ms B to sit at the end of the bed, facing you and you:

    i. put your hands underneath Ms B's XXX top; To be determined

    ii. massaged/rubbed Ms B's collar bone and/or shoulders. To be determined

6. Your actions as set out at paragraph 5 above were:

    i. undertaken without Ms B's consent; To be determined

    ii. not clinically indicated; To be determined

iii. 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.

The Admitted Facts

10. At the outset of these proceedings, through his counsel, Dr Zeeshan made admissions to paragraph 4a - c 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 paragraph 4a – c of the Allegation as admitted and found proved.

The Facts to be Determined

11. In light of Dr Zeeshan's response to the Allegation made against him, the Tribunal is required to determine the disputed allegations, as set out above.

Witness Evidence

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

- Ms A, in person on 10 February 2026, and received her witness statements dated 26 October 2023 and 8 October 2024;
- Ms B, in person on 11 February 2026, and received her witness statements dated 10 October 2023 and 15 January 2026;
- Mr D, in person on 12 February 2026, and received his witness statement dated 23 July 2025.

13. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from Dr L, Clinical Director for the Emergency Department at the Trust, dated 29 July 2025 and 15 August 2025. Dr L was not called to give oral evidence.

14. Dr Zeeshan provided his own witness statement dated 14 January 2026 and also gave oral evidence at the hearing.

15. In addition, the Tribunal received oral evidence on Dr Zeeshan's behalf from Ms I, Adult Registered Nurse, on 13 February 2026 via videolink, and received her witness statement dated 12 February 2026.

Expert Witness Evidence

16. The Tribunal also received oral evidence from two expert witnesses called by the GMC. Mr G, Consultant Breast Surgeon on 12 February 2026, together with his report dated

20 September 2025; and Mr F, specialist in Orthopaedic Physiotherapy and Musculo-Skeletal Injuries, together with his report dated 12 August 2025.

Documentary Evidence

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

- Reports of Dr H, Lead Consultant in Emergency Medicine, dated 14 December 2023, 8 January 2024, 29 July 2024, 29 November 2024;
- Referral form submitted by Ms B to the GMC attaching various correspondence between Ms B and the Trust;
- The Trust's Disciplinary Investigation Report dated 15 December 2021;
- Dr Zeeshan's response to the Trust, dated 18 March 2021, regarding the complaints from Ms A and Ms B;
- Minutes of the Trust's investigation interview with Dr Zeeshan dated 2 December 2021;
- Dr Zeeshan's prepared statement to the police, dated 8 September 2022;
- A transcript of additional questions answered by Dr Zeeshan during his police interview on 8 September 2022;
- Ms B's initial statement dated 13 March 2021;
- Plan of cubicle in relation to Ms B;
- Minutes of the Trust's investigation interview with Ms B dated 28 May 2021;
- Ms B's police witness statement dated 7 December 2021;
- Ms A's initial statement dated 14 March 2021;
- Minutes of the Trust's investigation interview with Ms A dated 28 May 2021;
- Plan of Room in relation to Ms A;
- Minutes and non-verbatim notes of the Trust's interview with Dr L, dated 16 March 2021 and 17 November 2021, respectively.

The Tribunal's Approach

18. The Tribunal received written and oral submissions from both parties at the conclusion of the facts stage.

19. The Tribunal accepted the Legally Qualified Chair's advice, as appended to this determination.

20. In reaching its decision on facts, the Tribunal bore in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation; Dr Zeeshan 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 as alleged, as stated in the case of *Byrne v General Medical Council [2021] EWHC 2237 (Admin)* which confirmed the principle that there is only one standard of proof in civil and regulatory cases and that is proof that the fact in issue more probably occurred than not.

21. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied.

22. The Tribunal reminded itself that it must form its own judgement about the evidence presented to it.

23. The Tribunal was mindful that its task at this stage is to consider the evidence and submissions and make findings in relation to the factual allegations in dispute. Each paragraph of the Allegation has to be considered separately and in turn.

24. Throughout its deliberations, the Tribunal was mindful of its legal duty to protect the public which is split into three distinct parts. It means a Tribunal must act in a way that: (a) protects, promotes and maintains the health, safety and wellbeing of the public, (b) promotes and maintains public confidence in the profession, and (c) promotes and maintains proper professional standards and conduct for members of the profession.

25. The Tribunal was mindful of the new Guidance for MPTS Tribunals published on 30 September 2025 - effective from the 24 November 2025.

26. It had regard to all of the evidence adduced by both Mr Rose on behalf of the GMC and by Mr Rich on behalf of Dr Zeeshan - orally and in writing, and it is for the Tribunal to make findings of fact to decide whether any of the allegations presented by the GMC are proved.

Cross Admissibility

27. On day 6 of the hearing, and before the oral evidence of Dr Zeeshan, Mr Rich raised the question of approaches to cross-admissibility of evidence and suggested that the Tribunal decide, in advance of hearing counsels' submissions on Facts, which, if any, of the two approaches (propensity and rebuttal of coincidence), or both, could be adopted in this case. Mr Rose agreed that would be a reasonable way to do it but thought there were risks that the Tribunal limit itself too early and before considering fully the evidence on the facts. A draft direction, derived from the Crown Court Compendium but revised to reflect the nature of a Tribunal, was agreed by both counsel and provided to the Tribunal should the Tribunal decide that the cross-admissibility evidence is admitted.

28. Following the oral evidence of Dr Zeeshan, the Tribunal agreed to adopt the approach suggested by Mr Rich and both counsel made submissions on the issue of cross-admissibility.

29. The LQC provided legal advice to the Tribunal in relation to whether or not the cross-admissible evidence should be admitted.

30. Mr Christopher Rose, counsel, for the GMC submitted that the allegations relating to Ms A and Ms B show notable similarities, and therefore could show a propensity of Dr Zeeshan to behave in the way alleged. He also argued that the early "WhatsApp"

communication between Ms A and Ms B showed that Ms A raised her concerns about Dr Zeeshan before she knew the name of the doctor Ms B was concerned about, and that therefore there was no significant contamination of evidence between the two. Therefore, he submitted, the Tribunal could safely decide that the rebuttal of coincidence limb of cross-admissibility could also apply.

31. Mr Ben Rich, counsel, for Dr Zeeshan, submitted that the allegations are too dissimilar, arise in different contexts, and have distinct factual matrices. He argued that the allegations and the nature of Dr Zeeshan's defence are very different. Mr Rich also raised concerns about possible cross-contamination between Ms A and Ms B given their contact and the impact that Ms B's contact with Ms A had upon Ms A in particular. He drew the Tribunal's attention to the risks inherent in adopting both approaches in particular the risk of "double-counting". He submitted that the Tribunal should reject both approaches to cross-admissibility.

32. The Tribunal carefully considered the arguments advanced, and applied the relevant legal principles in reaching its decision.

33. In relation to insufficient similarity, there are some broad thematic features common to the allegations from the complainants in this case, and the two incidents are close in time to each other.

34. The similarities in terms of the allegations are that both complainants are young female, junior colleagues of Dr Zeeshan who allege that while working the XXX shift he offered to examine or treat them in response to their disclosure of medical issues and then allegedly assaulted them under the guise of an examination or treatment. In each case it is said that the examination or treatment was not conducted in a way that the complainant expected, anticipated or had consented to.

35. The Tribunal was therefore satisfied that the degree of similarity reached the threshold required for cross-admissibility in relation to the propensity limb.

36. In relation to concerns about contamination of evidence, the Tribunal accepted Mr Rose's submission that Ms A already had some concerns prior to learning of Ms B's experience. However, it considered that there was a realistic possibility that subsequently the complainants may have become directly or indirectly influenced by their acquired knowledge of each other's experiences. This was evidenced by the fact that Ms A decided to submit a complaint only following discussions with Ms B. The Tribunal also noted that the complainants were XXX and found it unlikely that they had not discussed their experiences beyond the WhatsApp exchange on the morning of 13 March 2021. Thus, the Tribunal could not be satisfied that the two accounts could be safely considered truly independent.

37. The Tribunal was mindful that considering proportionality and fairness was paramount. It considered that given the weaknesses identified above, the prejudicial impact of also allowing the rebuttal of coincidence approach outweighed any limited probative value.

38. The Tribunal, for the reasons set out above, refused to consider cross-admissibility evidence in respect of rebuttal of coincidence.

39. In relation to the proposed 'draft directions' document, the Tribunal therefore determined that that it will apply the 'Propensity' approach, should it need to do so, when considering the facts, and counsel should make submissions on this ground alone. The agreed directions document in relation to cross-admissibility was amended by the LQC to reflect the Tribunal's decision on which limb to apply, should it need to do so, and incorporated into the LQC's advice.

40. The Tribunal announced its decision on the record in the presence of the parties.

The Tribunal's Analysis of the Evidence and Findings

41. Background to the allegation in relation to Ms B

42. Ms B's complaint centres around events that occurred while she and Dr Zeeshan were on a XXX shift in Accident and Emergency at the Hospital. In summary, Ms B states that Dr Zeeshan had known that she experienced back pain XXX. She states that he approached her and enquired about her back and asked if XXX had cracked it for her, as he knew she had done before. When Ms B responded in the negative, she states that Dr Zeeshan offered to do this for her. Dr Zeeshan's account is that they had been seated together at XXX and had been chatting. As he got up to leave, he states that Ms B told him he could not leave without pressing her shoulders. This led to him joking that she needed her back cracked and offering to do this for her, which she accepted.

43. It is common ground that Ms B and Dr Zeeshan went in search of a room in which to conduct the treatment. Ms B says that Dr Zeeshan had told her she would need to lie down for the treatment. She states that they entered one room together, but another doctor was in the room. They went to a second room where there was only a chair. Ms B queried this because she understood from Dr Zeeshan that she would need to lie down. Finally, Ms B and Dr Zeeshan found a cubicle which had a bed in it. Ms B says that Dr Zeeshan told her to lie on her back on the bed and Ms B queried this because she expected to be told to lie on her front.

44. Dr Zeeshan's account is that they only entered one room together which contained a chair. He states that Ms B asked if he was expecting her to lie on the floor and this caused them to go in search of a room with a bed.

45. What occurred in the room is set out fully in the consideration of the allegations set out below. However, other parts of the chronology of events do not feature as part of the allegations but are relevant in as much as versions differ in ways which may speak either to Ms B's motivation to make a complaint of sexual assault or to the credibility of either Dr Zeeshan or Ms B. These include whether:

1) If Dr Zeeshan had acted in a sexually motivated way, he would have allowed there to be a gap in the cubicle curtain (which was later closed).
2) Ms B and Dr Zeeshan had been observed by Senior Nurse, Ms I and a Health Care Assistant on leaving the cubicle with Ms B not showing any signs of distress
3) Ms B was motivated to make her complaint because otherwise she may have been implicated as being involved in some kind of impropriety with Dr Zeeshan and that this may have come to the attention of XXX.
4) Ms B spoke positively of her 'massage' to Ms I thus undermining the credibility of her allegation made shortly afterwards.

Witness Credibility Assessment

46. During their closing submissions, both parties made reference to the evidence provided by Ms I. It was submitted by Mr Rich that Ms I's evidence 'fatally undermined' the evidence of Ms B. There was an assertion on behalf of the doctor that Ms B had embellished her account as matters developed over time, and that therefore, her account could not be relied upon. The Tribunal decided at this stage to consider the reliability and credibility of Ms B and Ms I in relation to those issues where they both gave evidence.

47. There were three points specifically the Tribunal was mindful of when considering this issue:

- Reference to the 'crack in the curtain' as in Ms I's witness statement;
- Whether Ms B and Dr Zeeshan bumped into Ms I when leaving the cubicle after the alleged incident and what, if anything, was said at that point;
- Whether Ms B had said to Ms I shortly after the incident words to the effect 'that was the best massage I've ever had, you should let him give you one'.

48. The Tribunal considered the evidence in chronological order.

49. The Tribunal had regard to the witness statement of Ms I, dated 12 February 2026. At paragraphs 11 – 18 she states:

> *'11. I was walking through from the Clinical Decisions Ward (CDW)/Ambulatory area to Majors 2. I heard a male and a female voice coming from behind a curtain in a cubicle. They were chatting. I cannot recall what was said but it was general chit chat. I do not recall anything inappropriate being said.*
>
> *12. The area was in darkness because it was not being used but there was a lamp on in the cubicle. I did not see anyone behind the curtain, it was slightly open when I passed but I didn't see anything, I could only hear the male and female voices.*
>
> *13. I saw my colleague [Ms O], who is a Health Care Assistant, and we agreed we would go and see what was going on as the ambulatory area was closed and in darkness so it seemed strange that there were people in there. [XXX].*

14. As [Ms O] and I walked back through Ms B and Dr Zeeshan were coming out from behind the curtain. I recall saying something along the lines of 'Oh I thought it was someone else, I'm glad it's you two'. I also said I thought we were going to catch someone out. I recall that Ms B commented that she had needed a back massage as she had a sore back.

15. We all walked out of Ambulatory together, Ms B, Dr Zeeshan, [Ms O] and me. Ms B and Dr Zeeshan were both fine. They did not appear awkward or uncomfortable.

16. We then went through to Majors 2. Dr Zeeshan left, I am unsure where he went but he was not in Majors 2. Ms B and I sat at the desk and she started to twist side to side sat in the chair. She said something along the lines of 'that was the best back massage I've ever had, you should let him give you one'. I didn't respond to her however, in my head I thought I wouldn't do that [redacted]

17. Approximately 15 minutes later Ms B mentioned something about being uncomfortable with the massage. I remember being surprised as earlier she had said it was the best she had ever had. I told her she should speak to [Ms N] who was the nurse in charge if she needed to.

18. I spoke to Ms B later on in the shift and she confirmed that she had spoken to [Ms N].'

50. The Tribunal noted that in the notes of Ms I's Trust interview on 25 November 2021, it is recorded, in response to what she recalled:

'I was SN at the time and was in charge in majors 2.
I was cutting through from CDW and ambulatory to majors 2.
I heard male and female voices from behind a curtain, heard people chatting, can't remember exactly what was being said but nothing inappropriate just general chit chat.
I saw [Ms O] and we said we would go and see what was going on.
Ambulatory was closed and in darkness that's why it seemed odd, there was just a lamp on behind the curtain.
To be honest, I thought I was going to catch someone out behind the curtain.

As [Ms O] & I went back Ms B & KBZ were coming from behind the curtain.
I said, 'oh I thought it was someone else, I'm glad it's you two'.

And then in response to what she meant by 'catch someone out':

'I thought I was gong to catch someone out behind the curtain, a [XXX]. It's common knowledge about them seeing each other.'

And in response to whether she saw anything:

'Didn't see anything, the curtain was slightly open when I passed I think, but I didn't see anything.'

And in response to how Ms B and Dr Zeeshan appeared after they came out of the cubicle:

'Absolutely fine.
'We were kind of joking but I think Ms B thought myself & [Ms O] might have thought something was going between them.'

51. In her oral evidence to the Tribunal, Ms I maintained this.

52. The Tribunal noted that in her original statement to the Trust, dated 13 March 2021, Ms B's account includes:

'*Dr Zeeshan took me over to one of the hospital beds and pulled the curtains closed, leaving a small gap open. … At this point [Ms I]. [Ms I] walked past the open part of the curtain and Dr Zeeshan stopped massaging my back and closed the curtains around more so there was no longer a gap to see into the cubicle.*

53. Dr Zeeshan in his oral evidence told the Tribunal that as he completed the straight leg raises (SLR), which is discussed later in this determination, and asked Ms B to turn over onto her front, he heard someone, who he now knows to be Ms I, pass by. He told the Tribunal that at that point, the curtain was half open and he closed it to protect Ms B's 'privacy and modesty'.

54. In relation to Ms B saying that Ms I walked past whilst she was lying face down and facing away from the curtain, the Tribunal accept that she could not have seen who walked past at that point. The Tribunal does find that she did become aware of who had walked past the cubicle during her subsequent interactions with Ms I.

55. Ms I's evidence is that the curtain was slightly open when she passed by but she did not see anything. There is no dispute between the parties that the curtain was partially open at the point at which Ms I passed by. Nor is there any dispute that the curtain was then fully closed by Dr Zeeshan. The Tribunal was of the view that the witnesses were consistent with each other as to the narrow issue of the position of the curtain and this did not impact on the credibility of the witnesses. Furthermore, the Tribunal does not consider that the fact the curtain was partially open makes it any more or less likely that Dr Zeeshan touched Ms B in the way alleged.

56. The Tribunal then considered the evidence as to when Ms B and Dr Zeeshan encountered Ms I and Ms O on leaving the cubicle and what was said.

57. Ms I in her evidence stated:

As [Ms O] and I walked back through Ms B and Dr Zeeshan were coming out from behind the curtain. I recall saying something along the lines of 'Oh I thought it was

someone else, I'm glad it's you two'. I also said I thought we were going to catch someone out. I recall that Ms B commented that she had needed a back massage as she had a sore back.

We all walked out of Ambulatory together, Ms B, Dr Zeeshan, [Ms O] and me. Ms B and Dr Zeeshan were both fine. They did not appear awkward or uncomfortable.

58. In his email to the Trust dated 18 March 2021, Dr Zeeshan stated:

'*…as we started moving towards maj 2 she thanked me and at that time the staff which passed initially met us and laughingly said that she first thought there is a patient, Ms B said no it's me with zeeshan as I asked him to crack my back, …'*

59. Ms B does not refer to this interaction until her GMC witness statement dated 10 October 2023, in which she states:

'It was when myself and Dr Zeeshan were walking back to [XXX] that we came upon [Ms I] and [Ms O]. I am not sure if she saw anything of the assault.'

60. The Tribunal noted that in his email, Dr Zeeshan makes reference to Ms B, Ms I, Ms O or himself having a laugh or joking about what had gone on whilst walking back to XXX. Because Dr Zeeshan and Ms I refer to joking/laughing comments, the Tribunal determined that something was said by Ms I along the lines that she thought sexual activity was going on behind the curtain. The Tribunal was therefore satisfied and determined that such comments were made in the presence of Ms B and Dr Zeeshan whilst walking back to XXX. The nature of this comment was not disputed by either party at the hearing. The Tribunal did not consider that Ms B's omission of this encounter in her earlier statements was significant. Her initial statement was narrowly focussed on the specific events which directly concerned her. In the Tribunal's view, there was no reason for Ms B to mention this encounter.

61. At its highest it is suggested on behalf of the doctor that this comment was significant because it alerted Ms B to the possibility that suspicion may fall on her and Dr Zeeshan that they had been engaging in sexual activity or some other type of impropriety. In turn, it is suggested that Ms B was aware that this could come to the attention of XXX, thus giving Ms B a motivation to invent the allegation of sexual assault.

62. The Tribunal considered on the balance of probabilities that this was not the case. In making this determination the Tribunal noted that Ms B has pursued her complaint over almost five years. She actively pursued a resolution through the Trust's disciplinary process, regularly chasing HR for updates and to encourage action to be taken. She states she was unable to work for XXX as a result of anxiety related to the incident and investigation process. She made a complaint to the police and engaged fully with their investigation and actively engaged with the GMC's own investigation and fitness to practise process. Had Ms B been concerned solely with gossip which may have reflected poorly on her in the eyes of XXX the Tribunal considers it inconceivable that she would have pursued her complaint with such vigour over such a long period.

63. In relation to Ms I's evidence, quoted above, that Ms B said words to the effect 'that was the best back massage I've ever had, you should let him give you one"', the Tribunal gave careful consideration as to whether it was more likely than not that this statement was made by Ms B.

64. The Tribunal noted that in Ms B's statement to the police, on 7 December 2021, she describes her conversation with Ms I:

> *'I returned to Majors 2 and asked if I could speak to [Ms I] [redacted] privately about what had happened as I was upset, he made me feel extremely uncomfortable and I felt as though a line had been crossed. I felt sick and like I had been violated in some way. I disclosed all events to her and was very upset by what had happened.*
>
> *[MS I] [redacted] informed me that when she walked past the curtain and noted that it had been closed further, she asked Health care assistant [redacted] to come and see what was happening behind the curtain, as she thought it was strange that it had been pulled closed when there were no patients in that area.*
>
> *I began to feel really upset as to what had happened and became teary to [Ms I] [redacted] and HCA [redacted]. They advised me to speak to one of the Sisters and ask for their advice on the situation as they too felt it was inappropriate behaviour on Dr Zeeshan's part. I decided to confide in [Ms N] who advised me to write a statement of what had happened. She reassured me that she would speal to Ward Manager [redated] as soon as she came on shift in the morning and this whole situation would be dealt with accordingly.'*

65. Ms B's evidence to the Tribunal was that Ms I's evidence was not true; she had never made such a statement. There are no other witnesses, besides Ms B and Ms I, on this issue.

66. Ms I first provided an account of what took place some 8 months after the alleged event in her interview with the Trust dated 25 November 2021. There is no documentary evidence to support her assertion prior to this. Ms I did say in oral evidence that she believed that she may have mentioned this comment to another colleague who she named as Ms K. However, the Tribunal has no evidence other than Ms I's as to this matter. Although the Tribunal does not have access to all the material considered in the Trust investigation, there is no suggestion that anyone else witnessed the statement alleged to have been made by Ms B or reported having been told of it by Ms I.

67. The Tribunal was also concerned that Ms I's evidence was vague in detail as to most of the circumstances of the event as recollected some 8 months later. For example, in her oral evidence to the Tribunal Ms I could not recall whether Ms B was upset or crying during their conversation when Ms B reported her discomfort about the interaction with Dr Zeeshan, but she held a clear and detailed recollection of the statement about the back massage alleged to have taken place around fifteen minutes earlier. The Tribunal thought it

likely that if she had always been so certain of this, she would have recognised its potential importance and disclosed it earlier to the Trust Investigation or a senior colleague.

68. The Tribunal considered the inherent probability that Ms B would have made such a comment. On her own version of events, she had just experienced a "line being crossed" and would have no reason to describe the interaction as she did. On Dr Zeeshan's account, he had performed a spinal manipulation and not a massage. On his version of events, therefore, Ms B would have had no reason, even if she were pleased with the result of her spinal manipulation, to have described it as "the best massage I have ever had" and to recommend such a treatment to her colleague. The Tribunal, therefore, on either Ms B or Dr Zeeshan's account, found it improbable that Ms B would have made the comment.

69. Finally, the evidence before the Tribunal is that Ms I considered Dr Zeeshan a valued colleague whom she held in high regard. She was sceptical of what Ms B had alleged against Dr Zeeshan and speculated that Ms B may have been embarrassed to have been discovered agreeing to go behind a curtain with Dr Zeeshan because XXX. The Tribunal determined that Ms I came to accept Dr Zeeshan's account and was mistaken about the words she attributes to Ms B.

70. Based on all the evidence before it, the Tribunal was satisfied that Ms B's account is more likely accurate on this point and was satisfied that Ms B did not say the words to the effect of 'it was the best massage I ever had ….".

71. The Tribunal kept in mind the findings in relation to credibility and their potential impact when considering the allegations relating to Ms B. However, it could not conclude that Ms B's account of Ms I's initial involvement 'involved both lying and manipulation of the evidence' as submitted by Mr Rich.

72. Before considering the specific wording of the Allegation, the Tribunal considered the two versions of how the examination came about: that given by Ms B and that given by Dr Zeeshan.

73. In his email to the Trust, dated 18 March 2021, Dr Zeeshan provided his account. He stated:

> *'The above staff was very good colleague [XXX] of mine. She [XXX], many a times she told me that she has ongoing back issue especially lower back [XXX]. [XXX] she was in maj 2 area and I on round as shift in charge to see what's happening there, she was sitting on chair and she greeted me with smile, I sat beside her, after few minutes I was about to stand up from my chair to leave, at that time she turned her back towards me and said "Zeeshan you cannot go without pressing my shoulder and neck as I am feeling stiff". I need a good massage from you, I said what happened, she said I have stiff back, I replied in joke that you need you back to be cracked and I can do it if you want, she said ok crack it, I asked r u sure, she said yes, I said then lie on your back, she came with me to tirage side of Maj 2 but in one room there was a doctor sitting, in second room there was a chair, I said sit here, she said no how can I lie here,*

I said then trolleys are on other side, she said let's go, she lied on a trolly and I explained her that to crack the back I need to press down on her back with force, she understood it and agreed and lied, I said I need to check whether there is spasm really as I was thinking to rule possibility of herniated lumbar disc, I lifted her rt leg and by flexing the hip with knee extension, similarly I did with second leg, both were neg, (both these tests were performed with [XXX]), after this I reassured her that this is just to be sure and relax her, then I told her to turn over to press the back to crack the back as she asked for, at that time some other staff passed by and I thought to put the curtain for her privacy, she then told me that mainly she is feeling spasm on both loin areas and lower back, I said ok, I pushed her back down with both my hand with one knee on bed for force, a cracking sound came and she said now she is feeling better but still her main spasm is down, I said it's ok and she can stand up, she said ok, as we started moving towards maj 2 she thanked me and at that time the staff which passed initially met is an laughingly said that she first thought there is a patient, Ms B said no it's me with zeeshan as I asked him to crack my back, …'

74. The Tribunal had regard to Ms B's original account to the Trust, dated 13 March 2021, in which she states:

'At approximately [XXX]hrs, I was sat at [XXX] in Majors 2 when I was approached by Dr Zeeshan. Dr Zeeshan started to rub my shoulders and asked how my back was feeling, as he knows I suffer from back pain [XXX]. I told him that it felt a little stiff but nothing more than normal and he suggested he crack my back for me. He asked me to follow him through to the Triage room; but due to the room being occupied by, another doctor, he took me through to Ambulatory/ waiting areas for Majors 2.

75. The Tribunal continued to bear in mind the two different accounts of how the offer of back-cracking came about when considering the allegations.

XXX Communication

76. The Tribunal had evidence of XXX communication between Ms B and Dr Zeeshan. Ms B's evidence was that she had been alarmed to have received a message ('Hi') from Dr Zeeshan following the incident and XXX that. Dr Zeeshan states that he had only responded to what he thought was XXX from Ms B.

77. It is agreed between the parties that both Ms B and Dr Zeeshan thought that they were XXX before the incident. The evidence before the Tribunal shows that XXX was accepted by Dr Zeeshan from Ms B on the 13 March 2021, but this does not show us when XXX was sent.

78. The Tribunal therefore determined that the XXX evidence is of little assistance or relevance when determining the allegations.

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

80. Both Mr Rose and Mr Rich made their specific submissions in relation to the Allegation by dealing with Ms B before Ms A. Although the interaction with Ms A preceded that with Ms B, it was Ms B who made the first formal complaint. The Tribunal also decided to consider the allegations in relation to Ms B first, starting with paragraph 4.

Ms B

Paragraph 4

> 4. On 13 March 2021 you offered to treat a colleague, Ms B, by conducting a manipulation of Ms B's back ('the Treatment') and you failed to obtain adequate informed consent in that you did not discuss with Ms B:
>
> a. the risks/benefits of the Treatment; **Admitted and found proved**
>
> b. a diagnosis; **Admitted and found proved**
>
> c. a proposed treatment plan. **Admitted and found proved**

81. The Tribunal noted that Dr Zeeshan admitted the particulars of this allegation – 4a – c. However, it was submitted on his behalf, in relation to the stem, that Ms B asked him to provide the treatment.

82. The Tribunal noted Dr Zeeshan's evidence that he had received training on how to perform a back-cracking procedure. He told the Tribunal that he performed such procedures when he worked in Saudi Arabia, initially under supervision, and then on his own while on a neurosurgical rotation. This was the extent of his training. However, there is evidence before the Tribunal that Dr Zeeshan did 'crack' Ms B's back. In her own statement of 13 March 2021, she states *'He then cracked my back …'*.

83. The Tribunal had regard to Dr Zeeshan's witness statement, dated 14 January 2026. At paragraph 29 he states:

> *'I recall asking what had happened and she said her back was stiff. I jokingly stated that she needed her back to be cracked and that I could do it for her if she wanted me to.'*

84. The Tribunal therefore found the stem of paragraph 4 of the Allegation, as it related to whether Dr Zeeshan offered to treat Ms B, proved.

Paragraph 5

85. In considering the allegations in paragraph 5, the Tribunal had regard to Ms B's original account to the Trust, dated 13 March 2021, in which she states:

'At approximately [XXX]hrs, I was sat at [XXX] in Majors 2 when I was approached by Dr Zeeshan. Dr Zeeshan started to rub my shoulders and asked how my back was feeling, as he knows I suffer from back pain [XXX]. I told him that it felt a little stiff but nothing more than normal and he suggested he crack my back for me. He asked me to follow him through to the Triage room; but due to the room being occupied by, another doctor, he took me through to Ambulatory/ waiting areas for Majors 2.

Dr Zeeshan took me over to one of the hospital beds and pulled the curtains closed, leaving a small gap open. He then asked me to lie down on my back. I questioned this, as he was taking me there to crack my back, so I couldn't understand why he was asking me to lie like this: He continued to tell me to lie on my back, which I did as I put my trust into a Medical Professional. He then started to rub my legs from thighs downwards and my arms, and again I asked him what he was doing as this made me feel very uncomfortable. He informed me that he was making me feel more relaxed before cracking my back. Dr Zeeshan then asked me to turn over onto my stomach, so I did. He then climbed up onto the bed and sat on me with his legs straddled either side of me. At this point I began to feel extremely uncomfortable, which left me hesitant to ask what he was doing. He then cracked my back but then continued to massage my back. He then moved further down and started to rub and massage my bottom and tops of my legs, and then persisted to move his hands up my [XXX] top onto my skin and rub my back. Dr Zeeshan then began massaging my shoulders and asked if I felt any better, he then climbed off the bed. He continued to massage my back over the top of my uniform. At this point [Ms I]. [Ms I] walked past the open part of the curtain and Dr Zeeshan stopped massaging my back and closed the curtains around more so there was no longer a gap to see into the cubicle. I then asked him if he had finished to which he replied he was nearly done. He then came back over to the bed and massaged and rubbed my bottom and back again. He then asked me to sit at the end of the bed facing him. I did this and then he began massaging my collar bone region/ shoulders underneath my [XXX] top. He then said he was done and opened up the curtains.

I returned to Majors 2 and asked if I could speak to [Ms I]. [Ms I] about what had happened as this had made me feel extremely uncomfortable and felt as though a line had been crossed. I disclosed all events to her. {Ms I]. Ms I informed me that when she walked past the curtain and heard that it was closed further, she asked HCA [Ms O] to come and see what was happening behind the curtain, as she thought it was strange that it had been pulled closed when there were no patients in that area. [Ms I]. [Ms I] told me that as soon as she heard my voice behind the curtain and knew it was me, she returned to Majors 2.

I began to feel really upset as to what had happened and became teary to [Ms I] and HCA [Ms O]. They advised me to speak to one of the Sisters and ask for their advice on the situation as they too felt it was inappropriate behaviour on Dr Zeeshan's part. I decided to confide in [Ms N], who advised me to write a statement of what had happened. She reassured me that she would speak to Ward Manager L. Teeling as

soon as she came on shift in the morning and this whole situation would be dealt with accordingly.'

Paragraph 5a

5. During the course of the Treatment:

a. you used your hands to massage/rub Ms B's:

i. legs;

ii. thighs;

iii. arms;

86. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. In particular she states in paragraph 2:

'*He then started to rub my legs from thighs downwards and my arms,…'*

87. Ms B has been consistent in her written statements and her oral evidence in relation to the areas of her body which Dr Zeeshan touched during the first part of the procedure during which she was lying on her back.

88. The Tribunal noted that in Dr Zeeshan's email dated 18 March 2021 as part of the Trust's investigation, which was his first written account, he stated that he had wanted to rule out the possibility of a herniated lumbar disc and had performed a straight leg raise on each leg. He stated

'…I reassured her that this is just to be sure and relax her …'

89. In Dr Zeeshan's Trust investigation interview on 18 November 2021 he reiterated that in conducting the straight leg raise he was seeking to relax Ms B. In the non-verbatim notes of his interview with the Trust on 18 November 2021, it records Dr Zeeshan stated:

'I was not rubbing, I was doing SLR to rule out contra indicators.

Did not touch Ms B's arms – apologies if I accidentally brushed past arms
I did not massage legs – I touched thigh to do SLR.'

90. The Tribunal then noted Dr Zeeshan's responses during his police interview on 8 September 2022 where he told the officer that he did not massage Ms B but completed a straight leg raise test on both Ms B's legs. Dr Zeeshan said that Ms B queried why the SLR was done and he told her it was just to relax her because it was important that her back muscles should be relaxed before the back-cracking is done. When asked by the officer what he had done to make her feel relaxed, Dr Zeeshan responded 'I have just done the SLR' and he said

to Ms B 'no I am just trying to calm you down'. He then told the officer that he was just verbally telling Ms B to relax. He told the officer he gave only a verbal instruction to relax and he had not physically tried to get her to relax.

91. The Tribunal had regard to the opinion of the expert, Mr F, who stated:

> *'The description of undertaking SLR as a test has no justification in the treatment of thoracic spinal manipulation. SLR is a test for the lower lumbar spinal nerve roots. The lumbar spine manipulation technique does not involve 'thrust techniques' typically used for the thoracic spine in a sitting or prone lying position as described by both Ms B and KBZ. Therefore, manual handling of the leg and thigh would not be clinically justified in this case.'*

92. The Tribunal considered whether it was possible Ms B had mistaken the straight leg raises for massage. The Tribunal considered that it would not be possible to mistake the two. A SLR, as described in evidence by Mr F, consists of a 'passive stretch' where the clinician holds the heel and knee and lifts the leg upwards between 30 and 70 degrees to observe any pain or discomfort which may be indicative of compression of a nerve or disc. Mr F told the Tribunal that the nature of the pain described by Ms B in her back and shoulders but not her lower back provided no justification for conducting SLR tests.

93. The Tribunal was satisfied that there was no possibility that SLRs could be confused with massage. The Tribunal also noted that Dr Zeeshan made several references in his account to the Trust investigation and to the police investigation that he used the SLR to 'relax' Ms B. This is not a function of a SLR. The Tribunal also noted Dr Zeeshan's conflicting evidence in his police interview that he didn't do anything physical to help Ms B relax, only telling her verbally to do so.

94. The Tribunal was mindful, that Ms B, even by her own admission did not ask Dr Zeeshan to stop the back-cracking procedure at any point. Her evidence is that she questioned him as to what he was doing during the procedure. Firstly, when he asked her to lie down on her back, she questioned why this was when he was performing a back-cracking procedure. In her statement she stated '*He then asked me to lie on my back. I questioned this as he was taking me there to crack my back so I couldn't understand why he was asking me to lie like this.'* Secondly, Ms B states '*He then started to rub my legs from thighs downwards and my arms, and again I asked him what he was doing as this made me feel very uncomfortable.'*

95. The Tribunal considered Mr Rich's submission that Ms B's account of the treatment lacked credibility because she made no attempt to stop what was going on. However, the Tribunal determined that Ms B did question Dr Zeeshan but did not find any failure to ask him to stop could be used as evidence that any untoward behaviour did not occur.

96. In her oral evidence, Ms B told the Tribunal that she had had a back-cracking procedure performed on her previously and therefore had some idea of what to expect.

97. Given the inconsistencies in Dr Zeeshan's own evidence as to the purpose of the SLR and the expert's evidence that this had no clinical relevance, the Tribunal determined that Dr Zeeshan had introduced the idea of SLR to explain away Ms B's reporting of being massaged. It preferred Ms B's straightforward, consistent and contemporaneous account that Dr Zeeshan used his hands to massage/rub her legs, thighs and arms.

The Tribunal therefore finds paragraph 5a i – iii of the Allegation proved.

Paragraph 5b

> b. you climbed up onto the bed and, whilst sat on top of Ms B's bottom with your legs straddled at either side of Ms B, you massaged/rubbed Ms B's back over the top of Ms B's uniform;

98. Ms B disclosed in her WhatsApp message to Ms A, which was shortly after the incident, that Dr Zeeshan had straddled her and massaged her back.

99. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. It has set out earlier in this determination paragraph 2 of Ms B's statement in full. In particular she states:

> *'….He then climbed up onto the bed and sat on me with his legs straddled either side of me. …., the continued to massage my back'*

100. Dr Zeeshan's evidence is that he never did any of the things alleged. The Tribunal noted that in the non-verbatim notes of his interview with the Trust on 18 November 2021, in response to whether at any time he was straddled across and on top of Ms B, it records:

> *'Had one knee on bed only.*
> *Demonstrated how he was and what he did.*
>
> *No – was not straddled.'*

101. Ms B has been consistent, in her written statements and her oral evidence, as to straddling and the massage of her back by Dr Zeeshan while he was conducting the back-cracking procedure on her. The Tribunal did not consider that Ms B could reasonably have been confused about this, or to have mistaken Dr Zeeshan bracing his knee against the bed for him straddling her back.

102. The Tribunal had regard to the report of Mr F, dated 12 August 2025. He stated in relation to whether the examination was adequate: *'No - The physical interventions described (e.g. straddling, massaging thighs/bottom) are not components of any of any standard musculoskeletal spinal manipulation technique. Any kneeling on a bed whilst treating patients, even for leverage, is not a recognised, standard or orthodox technique. ….'*

103. Dr Zeeshan's evidence was that the idea to move to a room with a bed came from Ms B whereas he would have been happy to carry out the procedure with only a chair. However, in his account to the Trust on 18 March 2021, quoted above, he says 'I said then lie on your back …' The Tribunal determined that Dr Zeeshan had already indicated to Ms B that she would need to lie down before she questioned how they could use a room without a bed. The Tribunal noted that on Dr Zeeshan's account, he was prepared to do a spinal manipulation in a room with only a chair (which would have had to be a thoracic spinal manipulation) whereas in fact, he then did a lumbar manipulation having moved to a room with a bed. The Tribunal determined that had Dr Zeeshan's intent been to do a spinal manipulation, he would have had a settled intent as to which part of the spine he intended treating.

104. The Tribunal finds Ms B to be a credible witness. It preferred her consistent and contemporaneous account, both in her email following the incident, her WhatsApp messages with Ms A later that morning, and her subsequent interviews for the Trust and police investigations over Dr Zeeshan's. The Tribunal therefore determined, on the balance of probabilities, that Dr Zeeshan did climb up onto the bed and, whilst sat on top of Ms B's bottom with his legs straddled at either side of her, massaged/rubbed her back over the top of her uniform.

105. The Tribunal therefore finds paragraph 5b of the Allegation proved.

Paragraph 5c i

> c. you moved yourself further down Ms B's body, so that you were sat straddling the top of Ms B's legs, and you:
>
> i. rubbed your penis against:
>
> 1) Ms B's bottom;
>
> 2) the top of Ms B's legs;

106. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. It has set this out earlier in this determination. There is no mention of 'penis' or 'private parts in the statement. She states:

> *'He then climbed up onto the bed and sat on me with his legs straddled either side of me'*

107. At a meeting with the Trust on 28 May 2021, Ms B was provided a copy of her statement to read and to make any amendments to it. At this meeting, Ms B added reference to Dr Zeeshan's private parts, which the Tribunal understands to mean his penis. The record of the meeting states:

'XXX Introductions and introduced the panel. Asked Ms B if she was happy to read through her statement and add anything to it

Ms B Read through her statement. Added into her statement that when Dr Z had climbed onto her with his legs either side, that she could feel his private parts touching her.'

XXX Interrupted to confirm that this was a new addition to her original statement

Ms B Confirmed that it was and continue to read remainder of her statement.'

108. The Tribunal noted that following the meeting on the 28 May 2021, Ms B revised her statement to the Trust on 14 July 2021, there is the added reference to Dr Zeeshan's private parts rubbing against her for the first time, this states:

'At this point I began to feel extremely uncomfortable, as I could feel Dr Zeeshan's private parts pressing against my bottom. This left me hesitant to ask what he was doing and I froze. He then cracked my back but then continued to massage my back. He then moved further down, which was when I could feel his private parts rubbing against my legs and bottom.'

109. In an email dated 19 November 2021, in response to a question from the Trust as to why this additional information was not given earlier, Ms B stated:

'I did not disclose that I felt KBZ penis pressing against me in my original statement because I felt embarrassed, ashamed, dirty and like an inadequate object and I was worried about being judged. When I stated that I felt sick by KBZ being on top of me, it is because I could feel his penis pressing against me.'

and

'I am not 100% sure that KBZ was aroused. However, I could definitely feel it pressing against me.'

110. In Ms B's police statement, dated 7 December 2021, it is recorded:

'I could feel Dr Zeeshan's penis pressing against my bottom, …'

111. The Tribunal also received oral evidence from Mr D, XXX. He had made a statement to the police on 18 February 2023 to the effect that he remembered her telling him on the morning of the Treatment that 'she could feel his bits or it against her'. Whilst his evidence supported Ms B's account, the Tribunal did not attach much weight to it because it was hearsay evidence, because of the lapse of time between the event and his police statement, and because of his close relationship with Ms B.

112. The Tribunal was mindful of the wording of allegation at paragraph 5c i. This says 'rubbed your penis'.

113. The Tribunal noted that the first time Ms B mentioned feeling Dr Zeeshan's 'private parts' is in her meeting with the Trust on 28 May 2021. She then included reference to 'private parts' in her statement on 14 July 2021. The first description of rubbing is in her July 2021 statement. Rubbing is repeated in her statement in November 2021, and then in her police statement in December 2021. Reference to 'private parts' was not mentioned at all in her statement dated 13 March 2021 or in her WhatsApp messages with Ms A.

114. The Tribunal has already found in relation to paragraph 5b that whilst sat on top of Ms B's bottom with his legs straddled at either side of her, Dr Zeeshan massaged Ms B's back over the top of her uniform. It considered that it is more likely than not that Dr Zeeshan's penis was pressing against Ms B during this time. The Tribunal was however cognisant of the fact that it must consider the allegations as worded, in this case the allegation is rubbing of the penis against Ms B.

115. In light of the inconsistent references relating to this matter, in particular the absence of any mention of the penis in the earliest accounts and then a development of the allegation from pressing to rubbing, the Tribunal determined that the GMC has not discharged its burden of proof for this allegation.

116. The Tribunal therefore finds paragraph 5c i 1) and 2) of the Allegation not proved.

Paragraph 5c ii

ii. rubbed/massaged:

1) Ms B's bottom;

2) the top of Ms B's legs;

117. In relation to paragraph 5c ii 1) and 2), the Tribunal noted that in her statement produced shortly after the incident, Ms B states:

'He then moved further down and started to rub and massage my bottom and top of my legs'

118. In relation to paragraph 5c ii 1) and 2), the Tribunal had regard to Ms B's evidence as set out above. It noted that in her statement produced shortly after the incident she makes reference to Dr Zeeshan rubbing and massaging her bottom and tops of her legs.

119. Dr Zeeshan's evidence is that he never did any of the things alleged. His account of what occurred during the procedure of back-cracking, which he fully accepted he did, is set out earlier in this determination.

120. However, the Tribunal has found Ms B to be a credible witness. It preferred her consistent account over Dr Zeeshan's, and determined, on the balance of probabilities, that Dr Zeeshan rubbed/massaged Ms B's bottom and the top of her legs. This is due to Ms B's consistent evidence in relation to this allegation. It therefore finds paragraph 5c ii 1) and 2) of the Allegation proved.

Paragraph 5d

d. whilst sat in the position as described at paragraph 5c above, you moved your hands up Ms B's XXX top, onto her skin and you:

i. continued to massage/rub Ms B's back;

ii. massaged Ms B's shoulders;

121. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. It has set this out earlier in this determination. In particular she states:

> *'….and then persisted to move his hands up my [XXX] top onto my skin to rub my back. Dr Zeeshan then began massaging my shoulders and asked if I felt any better, he then climbed off the bed.'*

122. Ms B has been consistent, in her written statements and her oral evidence, as to what Dr Zeeshan did while conducting the back-cracking procedure on her.

123. Dr Zeeshan's evidence is that he never did any of the things alleged. His account of how he conducted the procedure is also set out above., which he has maintained throughout.

124. However, the Tribunal has found Ms B to be a credible witness. It preferred her consistent account over Dr Zeeshan's, and determined, on the balance of probabilities, that Dr Zeeshan did, whilst sat in the position as described at paragraph 5c above, moved his hands up Ms B's XXX top, onto her skin and continued to massage/rub Ms B's back, and massaged her shoulders.

125. The Tribunal therefore finds paragraph 5d of the Allegation proved.

Paragraph 5e

e. you climbed off the bed and you:

i. continued massaging Ms B's back over the top of Ms B's uniform;

ii. massaged/rubbed Ms B's bottom;

126. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. It has set this out earlier in this determination. In particular she states:

> *'….he then climbed off the bed. He continued to massage my back over the top of my uniform. At this point [Ms I]. [Ms I] walked past the open part of the curtain and Dr Zeeshan stopped massaging my back and closed the curtains around more so there was no longer a gap. He then came back over to the bed and massaged and rubbed my bottom and back again. '*

127. Ms B has been consistent, in her written statements and her oral evidence, as to what Dr Zeeshan did while conducting the back-cracking procedure on her.

128. Dr Zeeshan's evidence is that he never did any of the things alleged. His account of how he conducted the procedure is also set out above, which he has maintained throughout.

129. However, the Tribunal has found Ms B to be a credible witness. It preferred her consistent account over Dr Zeeshan's, and determined, on the balance of probabilities, that Dr Zeeshan did, after he climbed off the bed, continue to massage Ms B's back over the top of her uniform, and massaged/rubbed Ms B's bottom.

130. The Tribunal therefore finds paragraph 5e of the Allegation proved.

Paragraph 5f

> f. following your actions as described at paragraph 5e above, you asked Ms B to sit at the end of the bed, facing you and you:
>
> i. put your hands underneath Ms B's XXX top;
>
> ii. massaged/rubbed Ms B's collar bone and/or shoulders.

131. The Tribunal had regard to Ms B's original statement to the Trust, dated 13 March 2021. It has set this out earlier in this determination. In particular she states:

> *'….. this point [Ms I]. [Ms I] walked past the open part of the curtain and Dr Zeeshan stopped massaging my back and closed the curtains around more so there was no longer a gap to see into the cubicle. I then asked him if he had finished to which he replied he was nearly done. He then asked me to sit at the end of the bed facing him/ I did this and then he began massaging my collar bone region/shoulders underneath my [XXX] top. He then said he was done and opened the curtains.'*

132. Ms B has been consistent, in her written statements and her oral evidence, as to what Dr Zeeshan did while conducting the back-cracking procedure on her.

133. Dr Zeeshan's evidence is that he never did any of the things alleged. His account of how he conducted the procedure is also set out above., which he has maintained throughout.

134. However, the Tribunal has found Ms B to be a credible witness. It preferred her consistent account over Dr Zeeshan's, and determined, on the balance of probabilities, that Dr Zeeshan did put his hands underneath Ms B's XXX top and massaged/rubbed her collar bone and/or shoulders.

135. The Tribunal therefore finds paragraph 5f of the Allegation proved.

Paragraph 6

6. Your actions as set out at paragraph 5 above were:

i. undertaken without Ms B's consent;

136. In relation to paragraph 6 i, Dr Zeeshan maintained that he did not do any of the things alleged in paragraph 5. However, the Tribunal has found all the matters alleged, with the exception of paragraph 5c i 1) and 2), proved.

137. By the very nature of Ms B's complaint of unwanted touching, it is evident that she did not consent to this.

138. Therefore, paragraph 6 i of the Allegation is proved on the basis that given that Dr Zeeshan denied the matters we have found proved, occurred, he did not obtain consent.

ii. not clinically indicated;

139. In relation to paragraph 6 ii, the Tribunal had regard to the report of Mr F, specialist in physiotherapy of Orthopaedic Physiotherapy and Musculo-Skeletal Injuries, dated 12 August 2025. In his report, Mr F stated, under the heading 'Clinically Indicated':

> *'No – While Ms B had a [XXX] back pain, there was no documentation or examination justifying spinal manipulation. Furthermore, massage of the thighs and bottom is not indicated in any evidence based protocol for spinal manipulation. The treatment, straddling the patient whilst prone lying and 'cracking' her spine indicates a thoracic spinal manipulation. The position and technique described was unorthodox.*
>
> *Patient Ms B described neck and shoulder stiffness at the time and had had previous 'back cracking' to alleviate the discomfort. There is no indication whether this is part of the upper spine (neck and thoracic) or lower back however with the majority of [XXX], these are generally confined to the neck and upper back. Therefore, treatment of the lower back, legs and buttocks would not be clinically justified in this case.'*

140. Having found the allegations proved, and preferring the account of Ms B, the Tribunal accepted the evidence of the expert that treatment of the lower back, legs and buttocks would not be clinically justified in this case.

141. The Tribunal therefore finds paragraph 6 ii of the Allegation proved.

iii. sexually motivated.

142. In considering sexual motivation, the Tribunal considered that it was not possible to prove this by direct observation. The Tribunal considered that it could only be proved by inference or deduction from the evidence.

143. In his prepared police statement, dated 8 September 2022, Dr Zeeshan stated:

> *'I deny that I sexually assaulted Ms B at any time, Ms B was a colleague [XXX] of mine. She used to discuss her family and personal life with me. Most of the time she would greet me with a tap on my back with her arm.'*

144. Earlier in this determination, the Tribunal set out the different accounts of Ms B and Dr Zeeshan as to how the offer of back-cracking came about. Having preferred Ms B's account of most of the sub-paragraphs of paragraph 5 of the Allegation, the Tribunal also preferred her account of how the back-cracking came about. The Tribunal found that it was Dr Zeeshan who instigated the back-cracking procedure. This was XXX on a XXX shift. Dr Zeeshan took Ms B to an area of the department which, from the evidence available, was fairly quiet, certainly at that time of the morning.

145. Ms I's evidence is that the curtain was slightly open when she passed by but she did not see anything. There is no dispute between the parties that the curtain was partially open at the point at which Ms I passed by. It was accepted that the area was part of a main route between majors 1 and 2 and that staff would pass through whilst moving between these two areas. There is no dispute that the curtain was then fully closed by Dr Zeeshan. The Tribunal was of the view that the witnesses were consistent with each other as to the narrow issue of the position of the curtain and this did not impact on the credibility of the witnesses. Furthermore, the Tribunal does not consider that the fact the curtain was partially open makes it any more or less likely that Dr Zeeshan touched Ms B in the way alleged.

146. While Dr Zeeshan maintains that it was Ms B who said she would like to lie down so that he could perform the procedure on her, the Tribunal is satisfied that it was Dr Zeeshan because in his statement of 18 March 2021 to the Trust, in response to the complaint, he says *'I can do it if you want, she said ok crack it, I asked r u sure, she said yes, I said then lie on your back'.*

147. The Tribunal took into account the inconsistencies in Ms B's account when making this and other determinations.

148. Finally, the Tribunal noted that in his closing submissions on behalf of Dr Zeeshan, at paragraph 39, Mr Rich stated:

> *'It is accepted that, if the Tribunal were to decide that Dr Zeeshan did straddle Ms B, massage her bottom, massage her back under her [XXX] and put his hands inside the*

top of her [XXX] and massage her collar bone, an inference of sexual motivation would be justified. Dr Zeeshan denies, and has always denied, any of these actions.'

149. The Tribunal was mindful of its findings in relation to paragraph 5 above. Whilst it notes Dr Zeeshan's evidence in relation to his health, it did not consider that this would prevent sexual behaviour for sexual gratification.

150. The Tribunal reminded itself of the introduction to the MPTS Guidance which came into effect on 24 November 2025, which at paragraph 51 states:

'Sexual misconduct may be sexually motivated, meaning it could be for the doctor's gratification, but won't always be. Where there is no clinical justification for touching a patient or member of the public (which includes a colleague) in a sexual way, or a way that could be perceived as sexual, then it will usually be appropriate to find sexual motivation.'

151. In all the circumstances, the Tribunal determined, on the balance of probabilities, that Dr Zeeshan's actions found proved, as set out at paragraph 5, were sexually motivated.

152. The Tribunal therefore finds paragraph 6 iii of the Allegation proved.

153. In conclusion, Ms B has been consistent from an early stage in relation to the matters before the Tribunal in relation to the majority of the allegations. The inconsistency in relation to 5c i (the rubbing) was not at a level of significance that rendered the entirety of her account not to be credible.

Ms A

154. Before considering the specific wording of the Allegation, the Tribunal considered the two versions of how the examination came about: that given by Ms A and that given by Dr Zeeshan.

155. In her initial statement to the Trust dated 14 March 2021. Ms A stated:

'Whilst working the [XXX] shift, I had disclosed to a medical colleague, Dr Zeeshan, in front of other nursing staff, that I had been under investigation for swollen lymph nodes, and Dr Zeeshan asked me if I had ever had swollen lymph nodes in my axilla region. I stated that yes I had, and they usually flared up and then went away again on their own. He asked could he examine me to 'just check' as being a female I was at a higher risk of breast cancer. Being a doctor, and a trusted medical professional, I accepted his examination.'

156. The Tribunal noted that in her account Ms A does not mention any current lump in her axilla, did not mention ever having had a breast lump, and did not XXX.

157. On Dr Zeeshan's account to the Trust, dated 18 November 2021:

'I was sitting with her in maj 2 and she was telling me and other staff that she is really concerned about some palpable lymph node in groin and she was previously seen by a doctor but she is not satisfied, she asked me it is a problem, I said solitary nodes can be due to some chronic infection so there is no need to worry till you are asymptomatic as people have lymph nodes in neck sometimes, but she said if as female you feel any lump in axila or breast then you should not ignore it, she immediately said that she feels there is lump in her rt axila and [XXX]. I said then you should go to GP and get it checked, she said can you check, I said even if I check still you need to go to GP for investigation, she said if you feel there is lump then I will go to GP,…'

158. In the non-verbatim notes of his Trust interview on 18 November 2021 Dr Zeeshan is recorded as saying *'she said she had lump in breast and axilla and [XXX]'*.

159. The Tribunal noted that the suggestion that Ms A had complained of a lump in her own breast is in a non-verbatim note of the Trust interview, albeit that Dr Zeeshan confirmed they were accurate by signing the document on 2 December 2021.

160. In his prepared police statement dated 8 September 2022, Dr Zeeshan says *'she said that she felt there was a lump in her right axilla and that [XXX]. I advised her that she should go to see her GP and get it checked out….she asked me if I could check the lump in her axilla for her'*.

161. Ms A said in her evidence that she expected an examination of her armpit.

162. There are thus clear differences between Ms A and Dr Zeeshan as to how the examination came about.

163. The Tribunal then went on to consider how the examination progressed.

164. In his witness statement to the Tribunal, dated 14 January 2026, Dr Zeeshan stated at paragraphs 16 – 18:

'Before I started the examination, explained to Ms A that the examination would involve the palpation of both her axilla and breasts. I said to her that if she felt uncomfortable at any point she could stop the examination.

I asked Ms A to sit in an upright position with her hands on her hips to contract the muscles. I explained to her that I would first try to examine the axilla area with clothes on to avoid any unnecessary exposure. Ms A confirmed her agreement and I tried to palpate the area through the sleeve of Ms A' s work uniform. Unfortunately, the sleeves were too narrow for me to perform the examination. Given this I asked Ms A to expose the area properly to allow me to undertake the axilla and breast examination. I recall asking Ms A again if she wanted a chaperone. She again said no and went on to remove both her top and bra.

I proceeded to examine both Ms A's breasts and both axilla areas. I used the palmer aspect of my fingers, this means the pads of my fingers, to palpate both breasts and axilla areas. During the examination I was continuously explaining to Ms A what I was doing. On examination I felt a small swelling in Ms A's right axilla. I told Ms A what I could feel and asked her to feel it so she could feel what I was referring to. She felt it and she nodded her head to confirm she had felt the lump. I advised Ms A that the swelling could be a lymph node or fat but that she needed to have an ultrasound scan to check.'

165. In her initial statement to the Trust, dated 14 March 2021, Ms A stated:

'Dr Zeeshan and I then went into a side room where he did ask if I would like a chaperone to be present. Again, being a trusted medical profession and fellow colleague, I declined this. He then began to feel my axilla region in both my underarms, and I had to move my arms into unusual positions for him to be able to feel anything. He stated he felt a small lump in my right axilla, and nothing in my left axilla. He asked me to feel it myself, so that "you know what you are looking for" and I could not feel anything there other than pectoral muscle. However he then asked me to remove my tunic top to have a better examination. Again, being a trust professional I took my top off and he asked for my bra to be removed. A little uncomfortable, I took this off, again feeling that as an experienced doctor he would have a better idea of what a potentially cancerous lump may feel like….I allowed him to feel my breasts for any lumps. No lumps were found…'

166. The Tribunal considered the offer of a chaperone. It is agreed that Dr Zeeshan offered a chaperone before the examination started and Ms A declined. According to Dr Zeeshan he again offered a chaperone during the examination. In his witness statement dated 14 January 2026 he stated *'I recall asking Ms A again if she wanted a chaperone. She again said no and went on to remove both her top and bra.'*

167. In the non-verbatim report of the Trust interview on 30 November 2021, Ms A was asked by the investigators *'how many times did KBZ (Dr Zeeshan) offer you a chaperone?' He has stated at least 2 or 3 times that he did.'* She replied *'just once as we entered the room'*.

168. Ms A was clear in her evidence that she was only asked if she wanted a chaperone on one occasion and the only reason she declined the need for a chaperone was because as far as she was concerned, it was only going to be an examination of her axilla. In her oral evidence she told the Tribunal that if there had been any suggestion of a breast examination at the time she agreed to the examination of her axilla, she would have declined the entire examination.

169. The Tribunal then went on to consider the allegations separately.

Paragraph 1

1. On 20 February 2021 you agreed to examine the armpit area of your colleague, Ms A and whilst doing so:

a. you touched Ms A's breasts in that:

i. you pressed the palms of your hands against Ms A's:

1) breasts;

2) nipples;

ii. you placed your fingers just above Ms A's areolas;

170. Dr Zeeshan accepts that he agreed to examine Ms A's armpit area and that he touched her breasts. He does not accept the manner in which he touched them as described in the allegation, although he accepts that allegation 1a ii could have occurred as part of an acceptable examination.

171. The Tribunal must determine if Dr Zeeshan touched Ms A's breasts in the manner described.

172. In her WhatsApp messages to Ms B, the Tribunal noted Ms A states:

'Just hoping it ain't the same one as I was 'examined' by with my swollen lymph nodes xxxxx'

and

'He's felt my boobs xxxxx
Actual naked boobs'

173. The Tribunal had regard to Ms A's initial statement to the Trust, dated 14 March 2021. In this she stated:

'I allowed him to feel my breasts for any lumps. No lumps were found. The examination lasted between ten to fifteen minutes of feeling around my axilla and breasts with my top and bra removed.'

174. In her police statement, dated 19 November 2021, Ms A stated:

'As soon as I took my bra off, Dr ZEESHAN started to feel my actual breasts in a massaging type motion. He used both hands at the same time. He massaged one breast first then moved onto the other. He massaged my whole breasts, including my nipples. He then started massaging them both at the same time with both hands. He massaged them continuously for 10 minutes.'

175. Later she stated:

> *'Dr ZEESHAN had a dissatisfied look on his face throughout. He then abruptly sighed and tutted saying "TAKE OFF YOUR BRA." At the same time, he threw his arms in the air. This made me feel stupid again for assuming that an examination of this kind would not require my bra to be removed. I asked Dr ZEESHAN "NO IT'S OKAY, SURELY I DON'T NEED TO TAKE MY BRA OFF FOR THIS?" I didn't want to seem rude by questioning his professionalism, however, did not feel it was right to be taking off, especially as I was only expecting an armpit examination. He never mentioned at any point any further than just my armpits being examined. I felt very uncomfortable but took my bra off because I trusted him. However, I then seriously doubted his intentions. I recall making a conscious mental note in an attempt to convince myself that he would not be getting any sexual gratification from this and that he would have a better idea of what a potentially cancerous lump may feel like, simply trying to help a colleague. As soon as I took my bra off, Dr ZEESHAN started to feel my actual breasts in a massaging type motion. He used both hands at the same time. He massaged one breast first then moved onto the other. He massaged my whole breasts, including my nipples.'*

176. In her oral evidence to the Tribunal, Ms A was clear that she only agreed to an examination of her axilla area and not her breasts. She said that when Dr Zeeshan began to examine her breasts, she did not say anything and just let it happen. She described Dr Zeeshan pressing the palms of his hands on her breasts during the examination akin to a 'high five' gesture.

177. In his interview with the Trust, on 18 November 2021, Dr Zeeshan stated that he examined Ms A's breasts. In his oral evidence, he told the Tribunal and acknowledged that whilst performing the examination of Ms A's breasts in the way he did, he may have touched her areolas. Further, Dr Zeeshan also accepted that he could have inadvertently touched Ms A's nipples.

178. The Tribunal, having considered all the evidence available, determined that, on the balance of probabilities, Dr Zeeshan touched Ms A's breasts in that he pressed the palms of his hands against Ms A's breasts and her nipples.

179. The Tribunal accepts, as submitted by Mr Rich, that the description by Ms A as to the manner in which Dr Zeeshan touched her breasts changed over time and in different contexts. The earlier description focussed on the fact of her breasts being touched at all, while later descriptions included terminology such as *'pinching', 'massaging', 'grope', 'grabbing'*. The Tribunal continued to bear in mind these varying descriptions when considering the allegations, and bore in mind Ms A's explanation that the later more detailed descriptions of how her breasts were touched were in response to specific questions from the police and the GMC asking her to characterise the nature of the touching. In addition, Ms A told the Tribunal that some of the terms were not her words but had been written by others in response to her showing the interviewer the actions involved.

180. The Tribunal did not consider that Ms A had fundamentally changed her evidence as to her experience and it is difficult for anyone to describe with precision the hand movements of another in these circumstances.

181. On Ms A's account, and even on the account of Dr Zeeshan, the Tribunal therefore found, on the balance of probabilities, that the actions as specified in the allegation occurred as described.

182. The Tribunal therefore found paragraph 1a i 1) and 2) and ii of the Allegation proved.

b. on one or more occasion you lifted both of Ms A's breasts upwards.

183. The Tribunal had regard to Ms A's supplemental witness statement, dated 8 October 2024. At paragraph 16, Ms A stated:

'Dr Zeeshan then used both of his hands on my left breast and did the same massaging motion as he had done on my right breast. Lifting my left breast upwards and feeling the whole areola as well.'

184. In her oral evidence to the Tribunal, Ms A conceded that she could not specifically recall whether Dr Zeeshan lifted both of her breasts upwards.

185. Dr Zeeshan denies lifting Ms A's breasts upwards.

186. The Tribunal determined, in the absence of any persuasive evidence to support the assertion that Dr Zeeshan lifted both of Ms A's breasts, it is not possible to find that he did so and that the GMC has not proved this allegation to the requisite standard. The Tribunal therefore finds paragraph 1b of the Allegation not proved.

Paragraph 2

2. You failed to:

a. explain to Ms A that you intended to undertake the actions as set out in paragraph 1 above;

b. seek prior consent from Ms A to carry out the actions as set out in paragraph 1 above.

187. The Tribunal had regard to Ms A's initial statement to the Trust dated 14 March 2021. She stated:

'Whilst working the [XXX] shift, I had disclosed to a medical colleague, Dr Zeeshan, in front of other nursing staff, that I had been under investigation for swollen lymph nodes, and Dr Zeeshan asked me if I had ever had swollen lymph nodes in my axilla region. I stated that yes I had, and they usually flared up and then went away again on

their own. He asked could be examine me to 'just check' as being a female I was at a higher risk of breast cancer. Being a doctor, and a trusted medical professional, I accepted his examination.'

188. In her oral evidence to the Tribunal, Ms A said that Dr Zeeshan made no mention of the possibility of doing a breast examination but when it did happen, she just let it happen.

189. In her police statement, dated 19 November 2021, Ms A stated:

'When we spoke about my lymph nodes, Dr ZEESHAN then asked I had ever had swollen ones in my armpit. I told ZEESHAN that I have and they usually flare up and then go away again on their own without treatment. I told ZEESHAN any my colleagues that were present that I had already had an ultrasound on my armpits so I didn't need any further investigations. ZEESHAN said "LET ME CHECK, BEING A FEMALE PUTS YOU AT HIGHER RISK OF BREAST CANCER." Being a doctor and a trusted medical professional, I accepted the examination assuming he was going to just examine my armpits for any lymph nodes. At no point did ZEESHAN explain at the beginning, that he intended to examine any further than my armpits. He also did not ask permission at any point to touch my breasts or explain why he would be doing it. If he had explained to me from the beginning that he was intending on touching my breasts and not just my armpits, I would have refused the whole examination. I did not consent to ZEESHAN touching my breasts.'

190. In his Trust interview on 16 March 2021, it is recorded that Dr Zeeshan stated *'[Ms A] told me scared [XXX]*. The Tribunal noted that this was the first time the matter concerning Ms A was discussed with Dr Zeeshan and this was his response to the complaint. The Tribunal also noted there were differences in the information offered by Dr Zeeshan to that of Ms A. For example, her [XXX], that Ms A asked him to examine her, and that he told her to go and see her GP. The only information which matches Ms A's is that Dr Zeeshan offered her a chaperone.

191. The Tribunal was mindful that in his report, dated 20 September 2025, Mr G concluded that according to Ms A's version of events:

'The examination provided by Dr KZ in the circumstances described by Ms A was not below the standard expected of a reasonably competent specialty doctor working in accident and emergency.

However, Dr KZ should have communicated what he was doing and why, and confirmed that Ms A was happy to proceed. For communication and on-going consent for this intimate examination care was below the standard reasonably expected of a reasonably competent specialty doctor working in accident and emergency.'

192. The Tribunal accepted that Ms A, at the time of her interaction with Dr Zeeshan, did not fully understand the nature of a breast examination and in particular that it could take several minutes, and should be done with the breasts fully exposed. It also accepted the

expert's evidence that an examination of the breasts was part of a competent axillary examination, especially if a lymph node were felt in the axilla. However, it did not accept that it was reasonable to proceed to examine the breasts without explicit consent to do so.

193. The Tribunal considered which of the two versions of how the examination came about in order to determine which was more probable. The Tribunal found that Ms A had not instigated the breast examination. Ms A's conversation with other colleagues had been around a lump in her groin. Dr Zeeshan asked her about lumps in her axilla and breasts and offered the examination of Ms A's axilla. The Tribunal was satisfied that Ms A did not expect or want a breast examination by a colleague while at work when she had no current concerns about a lump in her breast. Her axilla had been examined by her own GP and she did not voice any concern that this examination may have been insufficient, although she did express concern that the examination of the lymph node in her groin may not have been adequate.

194. The Tribunal found Ms A's evidence more persuasive that she only agreed to an examination of her axilla and this was spontaneously offered by Dr Zeeshan. It determined, on the balance of probabilities, that Dr Zeeshan did not explain to Ms A that he intended to undertake the actions as set out in paragraph 1 above; nor did he seek prior consent from Ms A to carry out the actions as set out in paragraph 1 above.

195. It therefore finds paragraph 2a and 2b of the Allegation proved.

Paragraph 3

3. Your actions as set out at paragraph 1 - 2 above were sexually motivated.

196. In considering sexual motivation, the Tribunal considered that it was not possible to prove this by direct observation. The Tribunal considered that it could only be proved by inference or deduction from the evidence.

197. The expert Mr G's opinion might best be summarised as saying that a competent examination of the axilla would include an examination of the breast, which should be explained and consent elicited. He also was of the opinion that the description of the manner in which Dr Zeeshan felt or examined Ms A's breasts, even that described by Ms A, could be consistent with a clinical breast examination rather than a sexually motivated touching of the breasts.

198. The Tribunal determined, however, that the fact that a particular manner of touching the breasts was consistent with a clinical intention did not imply that therefore it was inconsistent with an improper intention.

199. The Tribunal has found that Dr Zeeshan was the one who initiated the examination and that Ms A agreed to an examination which she expected would be confined to her armpit and that she would remain fully clothed. The Tribunal also accepts Ms A's account of the staged manner in which Dr Zeeshan approached the examination, progressing from a clothed examination to complete exposure of the breasts. Had Dr Zeeshan's intention simply been to

do an appropriate clinical examination including axilla and breasts, he would have done so with appropriate explanation and consent and explained the need to expose the breasts from the beginning. The Tribunal has found, however, that he proceeded without that explanation or consent.

200. In his account of his reason for examining Ms A, Dr Zeeshan includes Ms A disclosing that she was concerned about a lump in her armpit, XXX, and requested the examination. The Tribunal accepts that Dr Zeeshan may have misheard or misunderstood information about Ms A's XXX. This is because he mentions "XXX" at an early stage and Ms A accepts that XXX. However, having preferred Ms A's account of the circumstances leading to the breast examination, the Tribunal considered that Dr Zeeshan's rationale to the Trust Investigators for his examination was a self-serving justification.

201. The Tribunal determined that Dr Zeeshan availed himself of the opportunity afforded him by learning of Ms A's history of problems with lymph nodes to offer an examination of her armpit and then to proceed, without her consent, to touch her breasts in a manner which, while possibly consistent with a clinical motive, was primarily motivated by the pursuit of his own sexual gratification.

202. When making its decision, the Tribunal took into account the good character direction and the inherent probability of a doctor of good character acting in such a way. However, the Tribunal considered the evidence was sufficient to prove, on the balance of probabilities, that Dr Zeeshan had acted in that way and with sexual motivation.

203. In coming to this conclusion, the Tribunal did not need to consider the cross-admissibility evidence relating to propensity.

The Tribunal's Overall Determination on the Facts

204. The Tribunal has determined the facts as follows:

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

Ms A

1. On 20 February 2021 you agreed to examine the armpit area of your colleague, Ms A and whilst doing so:

    a. you touched Ms A's breasts in that:

        i. you pressed the palms of your hands against Ms A's:

            1) breasts; **Found proved**

            2) nipples; **Found proved**

ii. you placed your fingers just above Ms A's areolas;
Found proved

b. on one or more occasion you lifted both of Ms A's breasts upwards.
Determined and found not proved

2. You failed to:

a. explain to Ms A that you intended to undertake the actions as set out in paragraph 1 above; Found proved

b. seek prior consent from Ms A to carry out the actions as set out in paragraph 1 above. Found proved

3. Your actions as set out at paragraph 1-2 above were sexually motivated.
Found proved

Ms B

4. On 13 March 2021 you offered to treat a colleague, Ms B, by conducting a manipulation of Ms B's back ('the Treatment') and you failed to obtain adequate informed consent in that you did not discuss with Ms B:

a. the risks/benefits of the Treatment; Admitted and found proved

b. a diagnosis; Admitted and found proved

c. a proposed treatment plan. Admitted and found proved

5. During the course of the Treatment:

a. you used your hands to massage/rub Ms B's:

i. legs; Found proved

ii. thighs; Found proved

iii. arms; Found proved

b. you climbed up onto the bed and, whilst sat on top of Ms B's bottom with your legs straddled at either side of Ms B, you massaged/rubbed Ms B's back over the top of Ms B's uniform;
Found proved

c. you moved yourself further down Ms B's body, so that you were sat straddling the top of Ms B's legs, and you:

i. rubbed your penis against:

1) Ms B's bottom; **Determined and found not proved**

2) the top of Ms B's legs; **Determined and found not proved**

ii. rubbed/massaged:

1) Ms B's bottom; **Found proved**

2) the top of Ms B's legs; **Found proved**

d. whilst sat in the position as described at paragraph 5c above, you moved your hands up Ms B's XXX top, onto her skin and you:

i. continued to massage/rub Ms B's back; **Found proved**

ii. massaged Ms B's shoulders; **Found proved**

e. you climbed off the bed and you:

i. continued massaging Ms B's back over the top of Ms B's uniform; **Found proved**

ii. massaged/rubbed Ms B's bottom; **Found proved**

f. following your actions as described at paragraph 5e above, you asked Ms B to sit at the end of the bed, facing you and you:

i. put your hands underneath Ms B's XXX top; **Found proved**

ii. massaged/rubbed Ms B's collar bone and/or shoulders. **Found proved**

6. Your actions as set out at paragraph 5 above were:

i. undertaken without Ms B's consent; **Found proved**

ii. not clinically indicated; **Found proved**

iii. sexually motivated.

Found proved

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

Legally Qualified Chair's advice:

'LEGAL ADVICE ON FACTS

(1) Burden of proof

The burden of proof is on the GMC in respect of every matter.

(2) Standard of proof:

The civil standard applies; the balance of probabilities, Has the GMC satisfied the Tribunal that something which is alleged is more likely than not to have occurred or to be true
It is common ground that the standard of proof does not change.

Casey v GMC[2011] NIQB 95 The court adopted at paragraph 16 what was said by the House of Lords in Re Doherty:
"[16] …Lord Carswell in Re Doherty [2008] UKHL 37 makes clear that certain circumstances call for ***heightened examination of the evidence. Situations which call for heightened examination include the inherent unlikelihood of the occurrence taking place, the seriousness of the allegation to be proved and the serious consequences which could follow an acceptance of the proof.*** *A proper direction to the panel from the legal assessor who bears the responsibility ensuring that the panel understands the legal position should make the panel clearly aware of both the need and the reasons for heightened examination of the evidence in the case. …"*

The way this has been interpreted in later authorities:

Morris J in Dutta v. GMC 2020 has cast doubt on the above.

His emphasis is on inherent probability as follows:

Para 22

(3) The inherent probability or improbability of an event is a matter which can be taken into account when weighing the probabilities and in deciding whether the event occurred. Where an event is inherently improbable, it may take better evidence to persuade the judge that it has happened. This goes to the quality of evidence.

(4) However it does not follow, as a rule of law, that the more serious the allegation, the less likely it is to have occurred. So whilst the court may take account of inherent probabilities, ***there is no logical or necessary connection between seriousness and probability****. Thus, it is not the case that "the more serious the allegation the more cogent the evidence need to prove it".*

In para 111, he is expressing his conclusions:

Heightened scrutiny

First, the seriousness of an allegation does not of itself require more cogent evidence: as indicated in paragraph 22 above.

Morris J. is saying that a heightened examination of the evidence is required if the case concerns a serious allegation, not more cogent evidence.

Rather it depends on the inherent probability of the relevant conduct.

I advise that the safest approach is simply to consider whether there is an inherent probability or improbability of Dr Zeeshan's conduct

(3) Good character:

Good Character Direction

I advise that good character is something which the Tribunal should take into account when deciding any issues of fact. It is something which it should take into account, but it is not determinative. It is a matter for the Tribunal to determine what weight to attach to "good character". It can be a matter of cogency. Clearly it is not a defence to an allegation.

1. The law in relation to the doctor's character may be summarised as follows:

a. 'Good character' arises from the lack of any previous findings against the doctor.

b. Good character is not of itself a defence to an allegation.

c. Good character can properly be considered when considering a doctor's credibility. It is not limited to allegations of dishonesty.

d. In general terms, 'good character' is capable of being counted in a doctor's favour in two ways:

i. The Panel may decide that good character evidence supports a doctors' credibility, and so is something which the Panel should consider when deciding whether they believe their evidence (the 'credibility limb'); and

ii. Good character evidence may mean that the doctor is less likely to have acted as alleged in the allegation (the 'propensity limb').

e. The weight that a Panel attaches to the doctor's character is entirely a matter for the Panel, considering all the evidence placed before it that bears on each fact that remains in dispute.

Authorities on good character

Donkin v The Law Society [2007] EWHC 414 (Admin) Divisional Court.

This was a case of alleged dishonesty. The appeal was allowed on the basis that the Tribunal failed to take account of the ***"cogent evidence of positive good character when setting out their findings on dishonesty."***

However, the judgment makes points of general application irrespective of the exact charge (bold emphasis made):

24. *On behalf of the appellant, Miss Morris submits that where the issue is dishonesty, evidence of good character, particularly evidence as reliable and extensive as was produced in this case, is relevant to credibility and to propensity just as it would be in a criminal trial. She further suggests that it is also relevant to an examination of the circumstances in which the misconduct took place although, ultimately, this may add little to propensity in the sense that that word surely denotes propensity to commit the offence in the circumstances which are established.*
25. ***In my judgment the evidence of good character in this case was relevant to the issue of dishonesty.*** *As in a criminal trial, it cannot afford a defence in itself. Moreover, the weight to be attached to it is in the last resort a matter for the Tribunal.*

Wisson v Health Professions Council [2013] EWHC 1036 Collins J

Wisson was accused of acting inappropriately by discussing sexual matters with a female colleague in 2009. Part of the appeal concerned the correct approach that should be taken to the good character evidence. It was stated at paragraphs 44 and 45 of the judgement:

> *"good character must always be likely to be relevant for the panel where there is a substantial issue of fact to be decided and where the credibility of the registrant in the evidence that he gives, is an issue and it can also go to whether it is likely that he did do what is alleged against him…even general good character evidence can be material where…there are issues of fact that have to be resolved in a hearing before the panel".*

Arunkalaivanan v GMC [2014] EWHC 873 (Admin)

This was case where good character evidence was included at stage 1 where the allegations were of a sexual nature. The most significant aspect of the appeal was the challenge on the Panel's finding that Mr A's conduct was sexually motivated. The judge upheld the Panel's findings in respect of how the breast examination was undertaken. However, the Panel made no reference at all to character evidence in their reasoning on the issue of sexual motivation – see para 52. It was held that the Panel *did* take this into consideration in determining the factual dispute between Mr A and the Patient. ***"However…they apparently did not weigh up the extent to which the evidence of Mr A's character might be relevant to the final issue of whether he was sexually motivated".*** This was held to be a "material omission". The appeal was successful in respect of this aspect, and the Panel's finding that Mr A's actions were sexually motivated was reversed. The determination on impairment and sanction were also quashed.

(4) Need for focus on precise wording of allegations as framed

It is well established that the GMC must set out the allegations comprehensively and with precision, and that, in its fact-finding role, the Tribunal will confine itself strictly to the ambit of those allegations. Endorsing these principles, King J. stated in Chauhan v GMC (6) :-

I agree with Silber J. in Cohen v. GMC [2008] EWHC 581 (Admin) 581, paragraph 48 that findings in relation to any particular charge at stage one "must be focussed solely on the heads of the charges themselves".

The observations of Pill LJ in Strouthos v. London underground Ltd [2004] EWCA Civ 402 at paragraph 12 that
"it is a basic proposition, whether in criminal or disciplinary proceedings, that the charge against the defendant or the employee facing dismissal should be precisely framed and that the evidence should be confined to the particulars in the charge" must be equally apposite to hearings before the FTP of the Respondent. An associated principle relied upon by the

Appellant is that rehearsed by the **Privy Council in Salha v GMC [2003] UKPC 80** at paragraph 14, namely that "it is a fundamental principle of fairness that a charge of dishonesty should be unambiguously formulated and adequately particularised."

The Tribunal will need to ask itself whether the GMC has proved to the requisite standard that the allegations as worded are made out against Dr Zeeshan.

When making those decisions, it will be entitled to take into account:

- **The evidence contained within the bundle;**
- **The evidence heard by the tribunal.**

(5) Sexual motivation

The relevant authority is **Basson v GMC [2018] EWHC 505 (admin)** where at para 14 Mostyn J stated:

"A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship."

The GMC allege the former. Again because something is done, it does not follow it was sexually motivated and this must be specifically proven but here Dr BD denies the actions alleged.

(6) Assessment of Witnesses - general

(1) General: **Care** must be taken when assessing all witnesses and **demeanour may not be a good guide**. The approach to credibility was recently addressed in **Khan v GMC [2021] EWHC 374** per Knowles J quoting with approval from **Dutta v GMC [2020] EWHC 1974 (Admin)** per Warby J.

71. *Dutta,* supra, [38]-[49], [40]. I need to set out a necessarily lengthy extract from Warby J's judgment (his emphasis):

"38. In any event, I regret to say, in my judgment the Tribunal's reasoning process is vitiated by at least three fundamental errors of approach.
First, the Tribunal approached the resolution of the central factual dispute by starting with an assessment of the credibility of a witness's uncorroborated evidence about events ten years earlier, only then going on to consider the significance of unchallenged contemporary documents.

Secondly, the Tribunal's assessment of the witness's credibility was based largely if not exclusively on her demeanour when giving evidence.
Thirdly, the way the Tribunal tested the witness evidence against the documents involved a mistaken approach to the burden of proof and the standard of proof.

39. There is now a considerable body of authority setting out the lessons of experience and of science in relation to the judicial determination of facts. Recent first instance authorities include ***Gestmin SGPS SA v Credit Suisse (UK) Ltd*** [2013] EWHC 3650 (Comm) (Leggatt J, as he then was) and two decisions of Mostyn J: ***Lachaux v Lachaux*** [2017] EWHC 385 (Fam) [2017] 4 WLR 57 and ***Carmarthenshire County Council v Y*** [2017] EWFC 36 [2017] 4 WLR 136. Key aspects of this learning were distilled by Stewart J in ***Kimathi v Foreign and Commonwealth Office*** [2018] EWHC 2066 (QB) [96]:

……..

The conclusions Warby J expressed at [42] were as follows:

"42 … It is an error of principle to ask 'do we believe her ?' before considering the documents … Reliance on a witness's confident demeanour is a discredited method of judicial decision making …"

But Morris J. in **Byrne v. GMC, Admin Court 2021** suggests a different view:

See paras 17 to 20

So my advice is you should not ignore demeanour but be careful about attaching too much weight to it.

(2) Speculation: The Tribunal and witnesses must not speculate nor indulge in hindsight.

DIRECTION in relation to cross admissibility relating to propensity.

1. The Tribunal must consider each allegation separately.
2. Before Allegation X can support Allegation Y on the basis of propensity, the Tribunal must find Allegation X proved on the balance of probabilities.
3. If you find Allegation X proved on the balance of probabilities, you should next consider whether that shows that the Registrant has a propensity –

sometimes referred to as a tendency - to act in a sexually motivated way similar to that involving Allegation X.

4. If you do not find, on balance, that the Registrant has such a propensity, then cross admissibility on the basis of propensity cannot apply. But if you do find, on balance, that the Registrant does have such a propensity then you may take this into account when you are deciding whether the Registrant has behaved in the way alleged in Allegation Y.
5. Bear in mind however that even if a person has a propensity to behave in a certain way, it does not follow that they are bound to do so. So, if you find on balance that the Registrant does have a propensity to behave in the way alleged, this is only part of the evidence against the Registrant in relation to Allegation Y and you must not make adverse findings wholly or mainly on the strength of it.

Direction on the Treatment of Hearsay Evidence

What is Hearsay?

A statement is hearsay when it is *said or written by a person who is not giving oral evidence before the panel*. This includes statements in documents, witness accounts, or anything relayed second-hand.
Panels routinely encounter hearsay material, because many documents in a hearing bundle come from people who will never be called. That material is usually uncontroversial. A *formal hearsay application*, however, arises only when:

- the accuracy or truth of a statement is **disputed**,
- the opposing party has **requested the witness to attend**, and
- the witness is **unable or unwilling to attend**.

Weight to Attach to Hearsay Evidence

Even where admitted, hearsay does **not carry the same weight** as direct testimony unless corroborated.
Panels should consider:

- whether the statement is **consistent** with other evidence,
- whether it contains **inherent detail**,
- whether it was made **contemporaneously**,
- whether it is partially corroborated by documents or other witnesses.

The MPTS circular in Witness-evidence-and-hearsay_pdf-107357956.pdf reinforces that tribunals must distinguish between written evidence, oral evidence, and hearsay, and assess weight accordingly.

Direction to the Panel

You must assess what weight, if any, you attach to it, taking into account that it has not been tested in cross-examination.'

Determination on Impairment - 27/02/2026

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

Evidence

2. In reaching its determination, the Tribunal took into account all the evidence received during the facts stage of the hearing. This included Dr Zeeshan's written and oral evidence, the evidence of the witnesses to the facts, and the reports of the experts. The Tribunal also received at this stage of the hearing a bundle from Dr Zeeshan. This included testimonials from his clinical colleagues and evidence of his Continuing Professional Development (CPD), specifically his certificates of completion of courses entitled 'Good practice in consent for hospital doctors' on 5 October 2024, and an online module entitled 'understanding consent' on 6 October 2024. It also included records of his annual appraisals for the period 2021 - 2024.

Submissions

On behalf of the GMC

3. Mr Rose, counsel for the GMC, referred the Tribunal to Good Medical Practice ('*GMP*')(2013 version), the Guidance for MPTS Tribunals (effective 24 November 2025) ('the MPTS Guidance'), and to relevant case law. Mr Rose referred the Tribunal in particular to Section B of the MPTS Guidance stating that it will need to work its way through Steps 2a – 2e when considering the question of impairment. Mr Rose submitted that the Tribunal would need to adopt the two-stage test for impairment and first would need to decide if the conduct found proved amounted to misconduct, a recognised ground of impairment.

4. Mr Rose referred the Tribunal to paragraph 4 of his written submissions, setting out the principles in the case of *Remedy v GMC [2010] EWHC 1245 (Admin).* He submitted that the Tribunal may find that Dr Zeeshan's conduct falls into both limbs as described in that case. First, it was behaviour of a morally culpable kind, sexually motivated touching without

consent which was prejudicial to the profession. Secondly, albeit it involved the informal treatment of colleagues, it was still in the exercise of clinical practice.

5. Mr Rose submitted that Dr Zeeshan's conduct breached paragraphs 1, 36 and 65 of GMP, adding that paragraphs 1 and 65, in particular, make clear how doctors should behave. Mr Rose acknowledged that this case does not involve clinical failings and therefore there are no concerns around medical knowledge or clinical skills.

6. Mr Rose then took the Tribunal through the Steps 2a – 2e of Section 3, Part B of the MPTS Guidance. He submitted that Step 2a of the MPTS Guidance requires the Tribunal to determine whether there is misconduct in this case. He referred to paragraphs 50 and 51 of the MPTS Guidance (*Section one: Guidance introduction > Protecting the public in specific case types > Case type 1: sexual misconduct*, and submitted that the descriptions provided in these paragraphs match those experienced by Ms A and Ms B. Mr Rose submitted that this clearly indicated that Dr Zeeshan's actions amounted to misconduct.

7. Moving on to Step 2b, Mr Rose submitted that the Tribunal needed to determine where on the spectrum of seriousness, the misconduct fell. He said that examples provided in the MPTS Guidance cover all aspects of misconduct, not just sexual misconduct, with concerns relating to clinical failings being at the lower end of the scale and sexual misconduct being at the higher end. He referred the Tribunal to paragraph 63 of the MPTS Guidance which he said makes clear that even a single incident of sexual misconduct can have a significant harmful impact and pose a high level of risk to public protection. He also drew the Tribunal's attention to the table set out under paragraph 63 which he said is appropriate at Step 2e of the MPTS Guidance.

8. Mr Rose added that the Tribunal should consider features which increase the seriousness of the misconduct. He submitted that in this case, there was a question as to whether Dr Zeeshan's conduct was premeditated or predatory. He reminded the Tribunal that Dr Zeeshan seized an opportunity when colleagues were discussing their medical issues and offered to help them. Mr Rose said that while Dr Zeeshan's conduct might initially be considered to be opportunistic, it became premeditated from that point. He submitted that "predatory" was perhaps the better description. Either way, Mr Rose submitted that the Tribunal should find in this case that the misconduct falls at the higher end of the spectrum of seriousness.

9. Turning to Step 2c of the MPTS Guidance - the relevant context, Mr Rose submitted that while in cases of clinical failings, it could be argued that features such as stress or lack of resources might have an impact, that cannot be so in a sexual misconduct case, whether work related or personal. He drew the Tribunal's attention to paragraph 67 of the MPTS Guidance (*Section one: Guidance introduction)*. He said that there are no particular features which would reduce the seriousness of what Dr Zeeshan did.

10. Mr Rose then referred the Tribunal to Step 2d of the MPTS Guidance. He submitted that there has been no evidence of any insight or remediation. He reminded the Tribunal that Dr Zeeshan has denied the allegations throughout these proceedings.

11. Turning to Step 2e, Mr Rose referred the Tribunal to paragraph 15 of the Guidance (*Section one: Guidance introduction)* and submitted that the Tribunal should have regard to the table headed 'Impact on public protection' specifically relating to sexual misconduct. He submitted that the table reiterates how sexual misconduct engages all three types of risks, i.e. the three limbs of Public Protection. Mr Rose added that in a case where a doctor had behaved in a sexually motivated way, and which involved carrying out non-essential touching of two female colleagues, all three limbs of public protection are engaged. He went on to say that sexual misconduct committed against colleagues in a clinical setting opens up the potential for risk to patients and has the potential to impact public confidence in the medical profession. Mr Rose submitted that there is a need to maintain professional standards and to ensure that a message is sent out that this type of behaviour is unacceptable, and indeed is deplorable.

12. Mr Rose said that Dr Zeeshan's behaviour demonstrates an ongoing risk to public protection. In the absence of any evidence of insight and remediation, and taking all the information together, Mr Rose invited the Tribunal to find that Dr Zeeshan's fitness to practise is impaired.

On behalf of Dr Zeeshan

13. Mr Rich, counsel, told the Tribunal that he made no submissions on the question of whether there was a legal basis for considering impairment. He acknowledged that impairment might be found on the basis of the need to maintain and uphold professional standards and maintain public confidence in the medical profession. He submitted that the patient safety limb was not engaged as Dr Zeeshan had been practising since 2004, 17 years before the events, and had no previous adverse findings against him. He added that Dr Zeeshan has been practising at the Trust without any further concerns for a further five years since the events with and no remotely similar concerns of any kind.

14. Mr Rich referred the Tribunal to Dr Zeeshan's Stage 2 bundle. He took the Tribunal through a number of testimonials from Dr Zeeshan's clinical colleagues, most of whom he said were female, attesting to his clinical work, professionalism and character. He said that Dr Zeeshan's colleagues held him in high esteem and regarded him a valued member of the clinical team. Mr Rich also referred the Tribunal to Dr Zeeshan's CPD and his appraisals for the years 2021 - 2024.

15. Mr Rich submitted that the testimonials provide a picture of how Dr Zeeshan treats his colleagues and the way in which he interacts with them, particularly female colleagues. He said that this should provide the Tribunal some reassurance when assessing whether or not Dr Zeeshan presents an ongoing risk to patients. Further, Mr Rich submitted that the testimonials demonstrate that Dr Zeeshan is a dedicated doctor with a reputation for impeccable conduct and the risk of repetition is very low. He went on to say that the Tribunal needed to determine whether there was any real prospect of Dr Zeeshan repeating his misconduct. Mr Rich added that Dr Zeeshan has never attempted to minimise the seriousness of the allegations against him or try to find a way round them, but instead, he

addressed them head on. This demonstrates he has a clear understanding of the seriousness of what is alleged against him. Dr Zeeshan was very clear about what he did and has demonstrated that he understood the boundaries of giving treatment to people on an informal basis in the future. He also drew attention to his care in now ensuring he always has chaperones as he understands the dangers he put himself in and plainly will never do so again in the future.

The relevant legal principles

16. The Tribunal accepted the advice of the LQC, which was shared with counsel and agreed and is annexed to this determination.

17. Throughout its deliberations, the Tribunal bore in mind the statutory overarching objective: to protect and promote the health, safety and wellbeing 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 the medical profession. It also had regard to the MPTS Guidance.

18. 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 judgement alone.

19. 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 legal basis advanced by the GMC is misconduct. 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.

20. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts found proved are sufficiently serious as to amount to misconduct and then whether as a result of that misconduct, the doctor's fitness to practise is currently impaired in that he poses a current and ongoing risk to public protection requiring restrictive action.

21. Paragraph 11 of *Part B: stage two - impairment* of the MPTS Guidance provides a description as to what may constitute misconduct.

22. The Tribunal was further reminded that misconduct has been defined by the Privy Council in the case of *Roylance v GMC (No.2)* [2000] 1 AC 311 as '*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances*.' In that case, the Privy Council went on to say that '*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.'

23. The relevant standards to be applied to the current case are set out in the 2013 version of GMP. The Tribunal should ask itself how far short of those standards the doctor's conduct has fallen.

24. To assess whether Dr Zeeshan 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 Zeeshan and/or his working environment, and
- how Dr Zeeshan has responded to the allegations.

25. The Tribunal must determine whether Dr Zeeshan's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition. It should also consider whether a finding of impairment is warranted taking into account the wider public interest.

26. 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 Grant*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

> *'..the tribunal should consider whether the findings of fact in respect of the doctor. ... show that his 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;…*

The Tribunal's determination on impairment

Misconduct

27. The Tribunal first considered whether the facts found proved constituted a sufficiently serious departure from the standards of conduct reasonably expected of Dr Zeeshan, as a registered medical practitioner, so as to amount to misconduct. It reminded itself that it has found that Dr Zeeshan's conduct towards Ms A and Ms B was sexually motivated.

28. The Tribunal had regard to *GMP* and the paragraphs relevant to this case. The Tribunal was of the view that Dr Zeeshan's behaviour towards Ms A and Ms B was a clear departure from the principles contained in paragraphs 1, 36, and 65 of GMP. These state:

> *'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *…*
>
> *36 You must treat colleagues fairly and with respect.*
>
> *…*
>
> *65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

29. The Tribunal reminded itself of paragraph 201 of its determination on Facts where it stated:

> *'The Tribunal determined that Dr Zeeshan availed himself of the opportunity afforded him by learning of Ms A's history of problems with lymph nodes to offer an examination of her armpit and then to proceed, without her consent, to touch her breasts in a manner which, while possibly consistent with a clinical motive, was primarily motivated by the pursuit of his own sexual gratification.'*

30. Similarly, in relation to Ms B, the Tribunal found that Dr Zeeshan took the opportunity to conduct an examination of Ms B after learning about her back problems by offering to perform a back-cracking procedure on her, and it found that during the examination he carried out acts of unwanted sexual touching.

31. Whilst the Tribunal accepts that not every breach of *GMP* will amount to misconduct, it considered that on any view, unwanted conduct of a sexual nature towards a junior colleague in the workplace, and in this case two junior colleagues, can only be viewed as a standard falling far short of the standards expected of a medical practitioner and of conduct which would be viewed as deplorable by fellow practitioners.

32. The Tribunal was in no doubt that Dr Zeeshan's conduct was sufficiently serious as to amount to a finding of misconduct.

Impairment

Step 2a - Is there a legal basis for considering impairment?

33. Having found that the facts found proved amount to misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Zeeshan's fitness to practice is currently impaired. The Tribunal was satisfied, having found Dr Zeeshan's actions amounted to misconduct, that there was a legal basis for a finding of impairment.

34. The Tribunal had regard to paragraph 6 of the MPTS Guidance which states,

> *'6 Where there is a legal basis for considering a doctor's fitness to practise, to assess whether that doctor poses any current and ongoing risk to public protection, an MPT will consider:*
> - *the seriousness of the facts found proved,*
> - *any relevant context known about the doctor and/or their working environment, and*
> - *how the doctor has responded to the allegation(s).'*

35. The Tribunal considered each of these three steps in turn (Steps 2(b) to 2(d) in the MPTS Guidance).

Step 2b - Where on the spectrum of seriousness does the allegation lie?

36. The Tribunal reminded itself that a finding of impairment requires a finding that Dr Zeeshan poses a current and ongoing risk to public protection.

37. In order to assess whether Dr Zeeshan poses such a risk, and the extent of that risk, the Tribunal first considered where the allegation lies on the spectrum of seriousness.

38. The Tribunal had regard to paragraph 63 of the MPTS Guidance (Guidance Introduction) which states:

> *'Whilst a range of behaviour can be seen, the nature of the departure from the professional standards usually means these concerns or allegations fall at the higher end of the spectrum of seriousness. Even a single incident of sexual misconduct can have a significant harmful impact and pose a high level of risk to public protection.'*

39. The Tribunal had regard to paragraph 31 of the MPTS Guidance which suggests that '*sexual assault, indecency or sexual harassment*' are allegations that are likely to fall at the higher end of the spectrum of seriousness. The Tribunal decided that the starting point for assessing seriousness in this case, having regard to the nature of the facts it has found proved, must be at the higher end of the spectrum of seriousness.

40. The Tribunal next considered whether there were any features which increase the seriousness of the allegation such that it moves up the spectrum of seriousness. It had regard to the non-exhaustive list of such features set out at paragraph 36 of the MPTS Guidance and considered that the following applied:

> *'36……*

Predatory behaviour
Predatory behaviour is characterised by the doctor taking, or attempting to take, advantage of an opportunity to exploit a person or situation. It can involve premeditation or be opportunistic.

A doctor may behave in a predatory way inside or outside their working life.

41. The Tribunal considered that Dr Zeeshan's conduct exploited his professional position. He was a senior and trusted medical colleague. It took account of paragraph 175 of its determination on Facts where Ms A is quoted as stating in her police statement:

'…I asked Dr ZEESHAN "NO IT'S OKAY, SURELY I DON'T NEED TO TAKE MY BRA OFF FOR THIS?" I didn't want to seem rude by questioning his professionalism…'

and

'I felt very uncomfortable but took my bra off because I trusted him.'

42. The Tribunal accepted the GMC submission that Dr Zeeshan's conduct was predatory. He exploited the health concerns of two female junior colleagues by conducting examination/treatment, during which he touched them in a way which was sexually motivated, without their consent. The Tribunal determined that this amounted to predatory behaviour and therefore aggravated the seriousness of the behaviour.

43. The Tribunal considered that Dr Zeeshan could not have done what he did during the examinations with Ms A and Ms B if he were not in a trusted position.

44. The Tribunal reminded itself that starting point fell at the higher end of the spectrum of seriousness. The Tribunal has found that there are features which increase the seriousness of Dr Zeeshan's sexually motivated touching of Ms A and Ms B. It follows that the allegation must rest at the high end of the spectrum of seriousness in assessing the current and ongoing risk which Dr Zeeshan poses to public protection.

Step 2c - What is the impact of any relevant context known about Dr Zeeshan and/or his working environment?

45. The Tribunal next considered whether there was any relevant context known about Dr Zeeshan and/or his working environment which may have impacted his behaviour at the material time and which, therefore, may have an impact on the assessment of whether he poses a current and ongoing risk to one or more parts of public protection. The Tribunal was mindful that relevant context can be negative or positive and can therefore increase or decrease the level of risk.

46. Paragraph 45 of the MPTS Guidance states that there are three types of relevant context: working environment, role and experience, and personal context.

47. The Tribunal also had regard to paragraph 50 of the MPTS Guidance which states:

'50. The impact that evidence of relevant context has on the assessment of risk, will depend on the nature of the allegation and individual circumstances of the case. However, evidence of relevant context that may decrease the level of risk to public protection posed by the doctor will usually carry less weight in cases that fall at the higher end of the spectrum of seriousness. This is because the risk to public protection arising from these concerns is generally more difficult to mitigate.'

48. Paragraphs 67 – 69 of the MPTS Guidance (Guidance Introduction) state:

'67. Where this is the case, evidence of relevant context known about the doctor and/or their working environment and evidence of insight and remediation that decrease risk will usually have less impact because sexual misconduct allegations falling at the higher end of the spectrum of seriousness can be more difficult to remediate.

68. In such 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 level of risk associated with a sexual misconduct allegation will generally be medium or high.'

49. In the circumstances of this case, the Tribunal has not identified any relevant contextual features which might mitigate the misconduct found. It therefore has no impact on the level of current and ongoing risk to one or more parts of public protection.

Step 2d - How has Dr Zeeshan responded to the allegation?

50. The Tribunal next considered how Dr Zeeshan has responded to the allegation. It had regard to all the evidence and considered whether, and to what extent, Dr Zeeshan has:

- shown insight into his own behaviour, and whether that insight is genuine;
- taken steps which have reduced the risk of him behaving in a similar way again; and
- kept his knowledge and skills up to date.

Insight

51. The Tribunal assessed the extent of Dr Zeeshan's insight into his misconduct. It had regard to paragraph 81 of the MPTS Guidance under Step 2(d) 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*
- *sought appropriate support for a health condition and are seeking and/or following treatment and advice and/or are engaging with local support and any steps put in place to manage any risks to patients*
- *complied with the professional duty of candour*
- *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.'*

52. The Tribunal had regard to Dr Zeeshan's Stage 2 bundle. This includes certificates of completion of two online courses in relation to consent. It also had regard to the numerous testimonials received from Dr Zeeshan's clinical colleagues attesting to his clinical work and character. The Tribunal considered that the testimonials provided evidence that Dr Zeeshan has a good understanding of the importance of using a chaperone when conducting any examinations of an intimate nature. Further, it noted that, as Dr Zeeshan has continued to work, he has kept his medical knowledge and skills up to date.

53. By way of example, the Tribunal noted the following comments in the testimonials:

From Ms P, Auxillary Nurse:

'As part of my role, I have personally acted as a chaperone for Dr Zeeshan during patient examinations and treatments. During these occasions, I can firmly state that Dr Zeeshan always maintained appropriate professional boundaries…'

From Ms Q, dated 11 October 2024:

'Whilst being a chaperone for Dr Zeeshan during clinical examinations he has always displayed a respectful manner around patients and staff.'

54. In his Appraisal, the Tribunal noted it states under the section headed 'Reflection on Complaints section' Dr Zeeshan stated:

'I am now extra cautious in seeing the patients in general and colleagues in special since this complaint, I don't see any patients without a chaperone, it's no more optional for me to offer a chaperone but I have made it mandatory for myself.'

And the appraiser states:

> *'Dr Zeeshan has reflected well for this incident and now he is strictly following Trust Chaperone policy. He has learnt to see patients who are actually booked in A/E Department. He has reflected that he would not see them until they were properly booked even they were their own colleagues.'*

55. While the Tribunal is encouraged by this, it was mindful that the concerns it has identified in this case do not relate to the use of chaperones, but Dr Zeeshan's intent at the time when he conducted the examinations of Ms A and Ms B. From the testimonial evidence and his appraisal, the Tribunal considered that Dr Zeeshan has some insight into aspects of his clinical practice and clearly shows an understanding of the need to use chaperones.

56. The Tribunal had regard to paragraph 89 of the MPTS Guidance which states:

> *'A doctor has the right to advance a robust defence to an allegation. This includes requiring the GMC to prove their case and bring witnesses to hearings. As a result, an apology may not be forthcoming until after a witness has engaged in the hearing. In other cases, if the defence put forward by the doctor is not successful, it may be unrealistic to expect them to immediately accept every finding, in a fully sincere manner, or apologise.'*

57. The Tribunal fully accepts that Dr Zeeshan has a right to defend himself against the allegations and his continued denial is understandable. However, this makes it more difficult for him to demonstrate insight and remediation.

Remediation

58. The Tribunal had regard to paragraph 115 of the MPTS Guidance which states:

> *'Where the doctor has been practising in a similar environment to the one in which the allegation arose and they have been exposed to situations where there was a risk of them repeating the behaviour or poor performance giving rise to the concern, the absence of repetition will be relevant.*

59. There is no evidence before the Tribunal that Dr Zeeshan has repeated his misconduct in the five years since these events. The Tribunal accepts that he has continued to work at the same Trust without restrictions and there have been no further concerns raised about his clinical practice. The Tribunal accepted that the risk of repetition may be very low.

60. However, the Tribunal was mindful of the last sentence of paragraph 117 of the MPTS Guidance which states:

'…However, where the allegation falls at the higher end of the spectrum of seriousness and therefore the starting point for assessing current and ongoing risk to public protection is high, a conclusion that an allegation is highly unlikely to be repeated may be given less weight and therefore have less impact on the assessment of current and ongoing risk.'

Keeping knowledge and skills up to date

61. The Tribunal acknowledges that the Allegation is not related to Dr Zeeshan's knowledge or skills and there is no evidence to suggest he has not kept his medical knowledge and skills up to date.

Step 2e - Tribunal's decision as to whether Dr Zeeshan poses any current and ongoing risk to public protection which may require restrictive action in response and its finding on impairment

62. The Tribunal next had to consider, overall, whether Dr Zeeshan poses any current and ongoing risk to public protection which may require restrictive action on his registration, and make its decision on impairment.

63. The Tribunal reviewed its conclusions at Steps 2(a) to (d) above. It has found that Dr Zeeshan's misconduct, which the Tribunal found involved unwanted sexual touching of two female junior colleagues for his own sexual gratification, lies at the high end of the spectrum of seriousness. The Tribunal found that the seriousness of the misconduct is increased by its finding that Dr Zeeshan's behaviour was predatory, and there are no identified features which decreased the current and ongoing risk that he presents to public protection. Furthermore, the Tribunal recognises the limited scope of the doctor to show insight and remediation at this point for the reasons identified under Steps 2a – 2d above.

64. The Tribunal had regard to the General Introduction section of the MPTS Guidance, and specifically the sections headed '*Case Type 1: sexual misconduct*'. Paragraph 63 of the introduction to the MPTS Guidance sets out how the three parts of public protection might be engaged in a sexual misconduct case.

65. The Tribunal considered that all three parts of public protection are engaged in the current case:

Protecting, promoting and maintaining the health, safety and wellbeing of the public

66. The Tribunal has found that Dr Zeeshan's sexual misconduct caused harm to Ms A and Ms B and potentially damaged their confidence in medical professionals. It notes that whilst both were colleagues of Dr Zeeshan, they were, in essence, treated by him as patients in the context of the allegations.

67. The Tribunal is mindful that there is evidence before it of Dr Zeeshan's good collaborative working, his current practice in relation to the use of chaperones, and his CPD

related to consent. There is no evidence that he has behaved in a similar way since these events and there is no evidence of any untoward behaviour with patients.

68. However, the Tribunal took into account that the testimonials predate the Tribunal's findings on facts. Therefore, they would have been written without the knowledge of the facts found proved. Further, the Tribunal took into account that it was unable to fully assess the risk of repetition in this case, given the difficulty faced by Dr Zeeshan in demonstrating significant insight or remediation. Considering all of the evidence in this case, the Tribunal was of the view that this limb of public protection remains engaged.

69. Accordingly, the Tribunal considers that Dr Zeeshan poses a current and ongoing risk to the health, safety and wellbeing of the public and that a finding of impairment is required on public safety grounds.

Promoting and maintaining public confidence in the profession

70. As to the second part of public protection - public confidence in the profession - the Tribunal was in no doubt that Dr Zeeshan's misconduct brings the medical profession into disrepute and that he has breached fundamental tenets of the medical profession, including the requirement to respect colleagues. The public must have confidence that doctors will behave professionally and appropriately and that they will not prioritise their own sexual gratification.

71. The Tribunal had regard to paragraph 35 of the Introduction document to the MPTS Guidance which states:

> *'Patients and members of the public must be able to trust doctors with their lives, including their health. Trust in the profession is essential so that when individuals need medical care, they have confidence in those who provide it.'*

72. The Tribunal considered that a member of the public knowing the full facts of this case, would be concerned that the doctor had behaved in the way found proved, and this had the potential to damage public confidence in the medical profession.

73. Accordingly, the Tribunal concluded that a finding of impairment is necessary to maintain public confidence in the profession.

Promoting and maintaining professional standards and conduct (upholding professional standards)

74. As to the third part of public protection, upholding professional standards, the Tribunal reminded itself of its earlier conclusion that Dr Zeeshan's conduct represented a serious departure from the standards of conduct expected of medical practitioners.

75. The Tribunal had regard to paragraph 42 of the of the Introduction document to the MPTS Guidance which states:

'If a doctor seriously departs from the professional standards, it can mean that they pose a risk to public protection.'

76. The Tribunal has found that Dr Zeeshan's conduct breached paragraphs 1, 36 and 65 of GMP. These matters are a serious departure from the standards expected of a medical practitioner.

77. The Tribunal also had regard to paragraph 44 of the Introduction document to the MPTS Guidance states:

'A departure from the professional standards may require regulatory action to be taken to uphold them. This is because regulatory action sends a message to the individual doctor, the wider profession, patients and members of the public about the principles, values, and standards of care and professional behaviour expected of doctors.'

78. Given the Tribunal's findings, it considered that a finding of impairment is required to send a clear signal to Dr Zeeshan, the profession, and the public, that this type of conduct is unacceptable.

79. In all the circumstances, the Tribunal concluded that the current and ongoing risk posed by Dr Zeeshan to public protection is high, and that a finding of impairment is necessary, by reference to all three parts of public protection.

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

Legally Qualified Chair's advice:

'Legal framework – Stage Two: Impairment (post-November 2025 guidance)

- The facts have been found proved, and we are now at Stage Two – impairment, having heard oral evidence from the doctor.
- Even if the doctor concedes that they are impaired, the tribunal must still make its own independent decision in accordance with the current guidance, which came into effect on 24 November 2025.

I remind the Tribunal at the outset of my advice of the Over-arching objective, which involves the pursuit of the following objectives—
(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.
I would emphasise the importance of considering the objective as a whole and we should not give excessive weight to any one limb.
The Tribunal should take note of the standards set out in the GMC's Good medical practice.
It is important to note that it does not follow, that a finding at stage one on the facts, automatically results in a finding of impairment.

Stage 2 – Overall approach

At this stage, your task is to decide **whether the doctor poses a current and ongoing risk to public protection**.

A finding of impairment **can only be made** if:

- there is a **legal basis** (a recognised **ground of impairment**), **and**
- the doctor poses a **current and ongoing risk** to **one or more** of the **three limbs of public protection** requiring **restrictive action**.

There is **no burden or standard of proof** at this stage; this is a matter of **your judgment**, exercised **reasonably and transparently**, with **reasons given**.

Step 2a – Legal basis for impairment

You must first identify whether the **proven facts engage a recognised ground of impairment**.
The **six statutory grounds** are:

- Misconduct
- Deficient professional performance
- Conviction or caution
- Adverse physical or mental health
- Lack of necessary knowledge of English
- A determination by another regulator

In this case, you should clearly identify **which ground or grounds are engaged**.
If **no ground is engaged**, the process **must stop** and there can be **no finding of impairment**.

Step 2b – Spectrum of seriousness

If a legal basis is established, you then assess **where the allegation sits on the spectrum of seriousness**:

- **Lower end**
- **Mid-range**
- **Higher end**

This sets the **starting point for risk assessment**:

- **Low**, **medium**, or **high**

This assessment must be based on:

- the **nature of the allegation**, and
- any **features that increase seriousness**.

Features that increase seriousness are as follows:

- The behaviour or poor performance was persistent or repeated
- Relevant fitness to practise history
- The behaviour was directed towards, or the poor performance involved interaction with, a person with impaired capacity or a person with a particular vulnerability
- Premeditated behaviour
- Predatory behaviour
- Abuse of professional position
- A reckless disregard for patient safety or professional standards
- Undermining a system designed to protect the public
- Undermining collaborative working
- Putting their own interests before those of patients
- An attempt to hide and/or avoid taking responsibility for behaviour or poor performance.

Further details of each of these features can be found within the guidance for MPTS tribunals.

Step 2c – Relevant context

You must then consider any **relevant context**, including:

- **Working environment**
- **Role and experience**
- **Personal or health context**

Ask yourselves:

- Did the context **directly or indirectly affect** the doctor's behaviour, performance, or health?
- Is it **appropriate** to take it into account?
- Does it **decrease**, **increase**, or have **no impact** on the level of **current risk**?

Context **may mitigate risk**, but it **does not excuse the conduct**, and it will generally carry **less weight** where seriousness is higher.

Step 2d – Doctor's response

You must then consider **how the doctor has responded**, including:

- **Insight** – whether it is **present, genuine, and developed**
- **Remediation** – whether the concern is **remediable**, **has been remedied**, and is **unlikely to be repeated**
- **Up-to-date knowledge and skills**

You should state clearly whether these factors **reduce**, **increase**, or have **no impact** on the level of risk.

Step 2e – Overall assessment and conclusion

Standing back, and **bringing together steps 2b, 2c, and 2d**, you must decide:

- Does the doctor pose a **current and ongoing risk** to public protection?

If **no**, you must make a finding of **no impairment**.

If **yes**, you must:

- identify **which limb or limbs of public protection** are engaged:
  - **patient safety**
  - **public confidence**
  - **proper professional standards**
- state the **level of risk** (**low, medium, or high**), and
- make a **finding of impairment**, with **clear reasons**.

If you find **no impairment**, you should then consider separately **whether a warning is required**.

<u>Summary of the legal position</u>

<u>Misconduct</u>

1. Considering the question of misconduct first then. There is no definition of "misconduct" given in the Medical Act, but there was some very helpful guidance given in the case of ***Roylance v GMC***, in that,
   "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."

2. In that regard, we should take note of the standards set out in the GMC's *Good medical practice*. I would remind you, of course, that matters of purely personal mitigation are not relevant at this stage.

3. In the case of ***Remedy UK v GMC***, it was said that,
   "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 a morally culpable or otherwise disgraceful kind which may, and often will, occur outwith the course of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession".

4. In considering Misconduct, it should be noted that a single negligent act or omission is less likely to cross the threshold of misconduct than multiple acts or omissions, but a single negligent act or omission, if particularly grave, might be characterised as misconduct.

5. In ***Cheatle v GMC [2009] EWHC 645 (Admin)*** – the Court reminded us that Misconduct must be serious rather than mere misconduct It is generally an accepted position that the kind of serious misconduct required is such as would be described as 'misconduct that would be regarded as deplorable by fellow practitioners'. In ***Khan v. BSB***, (Mr) Warby J said that the legal authorities make plain that a person is not to be regarded as guilty of professional misconduct if they engage in behaviour that is trivial, or inconsequential, or a mere temporary lapse, or something that is otherwise excusable, or forgivable.

6. The assessment of seriousness is a matter for us, exercising our own skilled judgement, on the facts and circumstances of the case, viewed in the light of all the evidence before us and the submissions made. We are of course, not bound by the parties' submissions.

7. If we concluded that misconduct is not made out or is not serious, it would follow that fitness to practise cannot be impaired by reason of misconduct, but if misconduct is found proved, then we need to proceed to the next part of the exercise and follow the new guidance as set out above.

Stage 2: Impairment?

8. It does not follow, that a finding of misconduct automatically results in a finding of impairment. The Court has noted that there must always be situations in which a Tribunal can properly conclude that the act of misconduct was an isolated error on the part of the medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness [is*] not impaired.

9. Impairment generally refers to the suitability of a doctor to remain on the register without any restriction. Again, as with the question of misconduct, there is no burden or standard of proof to be applied.

10. In case of ***Meadow v GMC*** the court said this at [30] and [32]:
"*30. The purpose of all these bodies is to regulate the profession or occupation concerned for the benefit of the public. It has been held that the essential purpose of FTP [fitness to practise] proceedings is to protect the public and not to punish the practitioner.*
…
32. In short, the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FPP thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.

11. In considering whether a doctor's FTP is impaired we should consider the following principles as outlined by MRS JUSTICE COX In the case of ***Council for Healthcare Regulatory Excellence v NMC & Grant*** in which the High Court endorsed the following approach, as suggested in the Fifth Shipman Report :

'Do our findings of fact in respect of the doctor's misconduct, show that their fitness to practise is impaired in the sense that the doctor:

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*

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

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

d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

This stage now comes towards the end of the process as set out above.

12. As to the meaning of fitness to practise: Zygmunt v GMC [2008] EWHC 2643 (Admin), Mr Justice Mitting (at para 29) adopted the summary of potential causes of impairment offered by Dame Janet Smith in the Fifth Shipman Inquiry Report (2004, para 25.50). Dame Janet Smith considered that impairment would arise, summary, where a doctor:
a) Presents and/or is likely in the future to present a risk to patients;
b) has brought and/or is likely in the future to bring the profession into disrepute;
c) has breached and/or is likely in the future to breach one of the fundamental tenets of the profession;
d) has acted and/or is likely in the future to act in such a way that his/her integrity can no longer be relied upon.

13. I also remind the Tribunal of what was said in the case of ***Yeong v GMC***, with which the Tribunal will be familiar:
"In looking forward, the FTPP is required to take account of such matters as the insight of the practitioner into the source of his misconduct, any remedial steps which have been taken and the risk of recurrence of such misconduct. It is required to have regard to evidence about these matters which has arisen since the alleged misconduct occurred."

14. That, reflects the principle that came out of the well-established case of ***Cohen v GMC*** as to whether or not the doctor's failings are remediable: whether they have been remediated and whether it is highly unlikely that they would be repeated.

15. In considering impairment we therefore need to have regard at the relevant stage to:
(i) Insight
(ii) Remediation; and

(iii) Risk of repetition

16. The questions of lack of insight and of the risk of repetition of the conduct in question are distinct questions, but those questions are closely related. The presence of lack of insight can be (often highly) relevant to the question of whether there is a risk of repetition and in particular to an assessment of the degree of that risk. In the case of ***R (Bevan) v General Medical Council [2005] EWHC 174 (Admin),*** the Court explained that it was "implicit" that "insight is most material to ensure that [the registrant] has realised that he has indeed gone wrong and therefore will not do anything similar in the future".

17. As such, when considering whether or not a doctor has developed sufficient insight, I would advise the Tribunal that the High Court has rejected the position that insight or remorse can only be established if a doctor has given oral evidence to demonstrate it. All the evidence before us needs to be considered, including the live evidence we have heard and the entirety of the content of the bundle that has been provided for our benefit. It is possible for a doctor to demonstrate insight in a variety of ways, even where conduct has been disputed.

18. I also remind the Tribunal of the case of ***GMC v Nwachuku*** that we should consider whether there is evidence before us that demonstrates that the doctor has accepted responsibility for their conduct and has taken steps to ensure that there is no repetition of it.

Remediation

19. In considering whether a doctor's failings are remediable, a doctor who is guilty of misconduct may be able to demonstrate that their fitness to practise is not impaired because of learning, training, change of attitude or other experience that has occurred between the time when the misconduct occurred and the time of the hearing when their fitness to practise has to be considered. In that context we are entitled to take into account all the information that is before us.

20. We should take into account their attitude to the allegations, any admissions of responsibility. That responsibility for any misconduct is a relevant factor for us to consider in determining whether or not her fitness to practise is impaired.

21. Finally, while remediation and the likelihood of repetition are important factors rightly to be taken into account in reaching our decision, they should be weighed into the

balance against each of the three elements of the overarching principle that has been referred to.

Public interest

22. We should also consider the wider public interest in considering impaired fitness to practise and remind the Tribunal of the observations of Mrs Justice Cox, in the Fifth Shipman Report in which she stated that,
"In determining whether or not a practitioner's fitness to practise is impaired by reason of misconduct, the relevant tribunal 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".

23. Whilst in ***Yeong v General Medical Council [2009] EWHC 1923 (Admin)*** the Court noted that there will be occasions where Impairment of Fitness to Practise must be found as a matter of public policy, to uphold public confidence in the profession, where to make no such finding would have an adverse impact on public confidence in the profession and the GMC/MPTS.

What if not impaired…

24. In the event that current impairment is not found, I would remind the Tribunal that it remains open to us to consider the question of an imposition of a warning. That is, of course, subject to hearing representations of the parties and should not be considered at this stage and is not open to us in the event that we find the doctor's fitness to practise is impaired.

Reasons

25. As at the Fact stage, we must give written reasons for our decision.

Comment from Counsel?

26. That is the advice that I give my colleagues at this stage. I invite any comments from either counsel in case I have either misinterpreted the law or I have missed out any aspects of it that you feel my colleagues should be advised about.'

Determination on Sanction - 03/03/2026

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

Evidence

2. The Tribunal received from Dr Zeeshan a statement from his Responsible Officer at the Trust, Professor M, dated 2 December 2025; and a testimonial from Dr L, Consultant and Clinical Director in Emergency Medicine at the Trust, dated 15 September 2025.

Submissions

On behalf of the GMC

3. Mr Christopher Rose, counsel, referred the Tribunal to Part C of the MPTS Guidance which deals with Sanction, and to the overarching principles. In particular, he drew the Tribunal's attention to paragraph 55 – 57 of the MPTS Guidance which sets out when a sanction of erasure might be appropriate. Mr Rose also drew the Tribunal's attention to the 'sanctions bandings' table set out at paragraph 62, and added this clearly showed that a sanction of *'12 months suspension to Erasure'* was indicated in cases of sexual misconduct at the high end of the spectrum of risk to public protection. He also referred the Tribunal to paragraphs 72 and 73 of the Guidance Introduction document. Mr Rose acknowledged that the appropriate sanction should be one which does not go further than necessary to maintain the aims of the overarching objective. He submitted that only a sanction of erasure will meet those aims, acknowledging, however, that the Tribunal will make an assessment of the appropriate sanction, weighing the interests of the public against the interests of Dr Zeeshan. Mr Rose further submitted that the appropriate sanction is a matter for the Tribunal exercising its own independent judgement.

4. Mr Rose submitted that in this case, given the seriousness of Dr Zeeshan's misconduct, a sanction of erasure is necessary to meet the requirements of the overarching objective, adding that the seriousness of the misconduct is high. Mr Rose noted in particular that this case involved two separate incidents by two separate complainants; the disparity in the position between the doctor and the complainants both of whom were young female junior XXX; Dr Zeeshan touching their naked skin in both cases (Ms A's nipples and areolas, and Ms B's back); both incidents of touching were sexually motivated and carried out under the guise of performing legitimate medical procedures. Dr Zeeshan abused his position and the trust Ms A and Ms B placed in him as a colleague to touch them in a way which otherwise he would not have been able to. Mr Rose added that both Ms A and Ms B have been compelled to XXX. Further, Dr Zeeshan has shown no insight or remorse, although Mr Rose acknowledged Dr Zeeshan's right to defend himself against the allegations.

5. Mr Rose reminded the Tribunal of its finding at the impairment stage that the risk of repetition may be low, and that there had been no concerns of similar behaviour since these events. He asked the Tribunal to be mindful that Dr Zeeshan has been under investigatory processes for the past five years and there would therefore be a clear expectation that he would not repeat his behaviour during that time. Mr Rose submitted, however, that once these proceedings are over, going forward, there was a risk of him repeating his behaviour.

6. Mr Rose referred the Tribunal to its finding at impairment stage that Dr Zeeshan had demonstrated some insight, based on the testimonial evidence, and the courses he had completed, including chaperoning. However, he reminded the Tribunal that the examination of Ms B, despite not requiring a chaperone, resulted in him carrying out sexually motivated touching of her bottom and thighs, and her back under her top. Mr Rose submitted that any development of insight into the need for a chaperone would therefore not help were Dr Zeeshan to carry out examinations similar to that provided to Ms B. In relation to Ms A, Mr Rose submitted that as the examination might accord with what would be expected, according to the expert Mr G, a chaperone would be of limited value in preventing the sexually motivated touching.

7. Mr Rose referred the Tribunal to the sanctions banding in relation to sexual misconduct stating that although this included a sanction of 12 months suspension, that was dealing with a broad range of behaviours starting with sexually inappropriate remarks and sexual harassment. He asked the Tribunal to have regard to the Guidance Introduction document in respect of this point.

8. Mr Rose said that the features set out above placed this case in the higher level of risk category. He reminded the Tribunal that it had found Dr Zeeshan's behaviour to be predatory, and this increased the level of seriousness. He added that with Dr Zeeshan's behaviour having been found to be sexually motivated it meant that any sanction short of erasure would be inappropriate, as indicated by paragraph 73 of the Guidance Introduction document. Mr Rose submitted that notwithstanding the testimonial evidence on behalf of Dr Zeeshan, it was the GMC's submission that he presented a risk to anyone he treats due to the way he treated Ms A and Ms B. Mr Rose further added that all of the factors set out at paragraph 57 of the MPTS Guidance also indicate erasure is the appropriate sanction, and given the lack of remorse, insight and remediation, erasure is the only sanction which will meet the requirements of the overarching objective.

9. In relation to the case of GMC v Gilbert, provided as part of the submissions to be made on Dr Zeeshan's behalf, Mr Rose said that the danger of relying on a case very heavily fact specific is that you end up with one party trying to extrapolate the principles from that case which cannot be extrapolated. He reminded the Tribunal of Ms A's comment at the end of her initial statement, where she indicated why she had XXX.

10. In all the circumstances, Mr Rose invited the Tribunal to erase Dr Zeeshan's name from the medical register as any sanction less than erasure would not meet the overall requirements of the overarching objective.

On behalf of Dr Zeeshan

11. Mr Ben Rich, Counsel, acknowledged that the Tribunal had placed Dr Zeeshan's case at the higher level of risk in relation to public protection, which means an indicative range of a 12 months suspension to erasure. Mr Rich said that his position differed from the GMC's that sexual misconduct at the higher level of the bandings covered a broad range from sexual remarks all the way up to criminal offences, where a person might be on the sex offenders register or for example rape. Mr Rich submitted that it cannot be right and that something that consisted merely of a sexual remark would be highly unlikely to have ended up in the higher risk category in the first place. He submitted that the range of matters referred to by the GMC in their submissions is from the low-risk category to the high risk category, adding that the Tribunal was not here to compare the facts in this case with the facts in other cases, but it could compare, to some extent, the different types of seriousness of the cases. This matter the Tribunal has found, is in the higher risk category and he submitted that offences in the higher range category are the most serious offences and that Dr Zeeshan's case should not be categorised by comparing it to low level sexual misconduct cases but to those cases that are solely in the higher risk category. This category will include as submitted, cases of rape and serious sexual criminal offences. When considering what sanction to impose, the Tribunal should consider where, within the range of the high risk sexual misconduct cases, Dr Zeeshan's case is.

12. Mr Rich acknowledged that the findings made by the Tribunal at impairment meant that currently Dr Zeeshan is not able to practise with unrestricted registration. He accepted that this is not a case where conditions would be appropriate. Mr Rich submitted that a lengthy period of suspension would be the appropriate sanction in this case, with a review hearing directed, and that this could address the requirements to protect the public and uphold standards and maintain public confidence in the medical profession. Mr Rich reminded the Tribunal that it had found the risk of repetition may be low based on the fact that it was unable to assess the ongoing risk posed by Dr Zeeshan because he had denied the allegations. Mr Rich said that as Dr Zeeshan had denied the allegations, this meant that he had limited opportunities to demonstrate any insight and remediation at this stage.

13. Mr Rich reminded the Tribunal it had noted Dr Zeeshan's practice now is to offer, and in fact, insist that a chaperone be present, even though the guidelines around chaperones within accident and emergency departments make clear a chaperone is not mandatory. Mr Rich said that this was a significant change in Dr Zeeshan's clinical practice. Further, he submitted that Dr Zeeshan does not treat any patients who are not booked in through the Accident and Emergency department's booking system. Mr Rich stated that the Tribunal should be mindful that in relation to Ms A, the allegations against Dr Zeeshan were not that the examination in and of itself was sexual but rather aspects of it were. Mr Rich said that those who act as chaperones usually know what is involved in an examination. In relation to Ms B, he said Dr Zeeshan did not offer a chaperone as one was not required.

14. Mr Rich referred the Tribunal to the relevant paragraphs of the MPTS Guidance and associated documents. Referring to paragraph 8 of the MPTS Guidance, Mr Rich submitted that the purpose of a sanction is to allow the doctor to address the matters identified by the

Tribunal and have an opportunity to gain insight and to remediate. Mr Rich drew the Tribunal's attention to the statement of Dr Zeeshan's Responsible Officer which makes clear that Dr Zeeshan expressed regret about these matters but could not do a reflective statement because he has not admitted the allegations. Mr Rich said that that puts the Tribunal in a position where it can only say that the risk may be very low and it cannot be certain that it is. He said that therefore one way to deal with this point at this stage would be for the Tribunal to decide to erase Dr Zeeshan's name from the medical register, and then it would never know what insight or remediation he had done. He said the Tribunal should be careful about going down that route. Mr Rich referred the Tribunal to relevant case law which deals with cases where the practitioner faced a worse outcome simply because they had denied the charges, which they are entitled to do.

15. Mr Rich went on to say that the danger of relying strictly on the wording of paragraph 73 as set out in the Guidance Introduction document is that there is a risk that this is taken as the default position from which any variation has to be explained, rather than the Tribunal working its way through the circumstances of the case and deciding where they sit, before deciding on the appropriate sanction. He added that the Guidance does not suggest that a higher risk case should lead to an automatic erasure, the table provides for a period of 12 months suspension up to erasure. He further stated that there must not be an assumption that sexual misconduct is uniquely difficult to remediate. Mr Rich reminded the Tribunal that Dr Zeeshan has continued to work unrestricted at the same Trust for five years since these events without any further concerns; the testimonials clearly show that the Trust was satisfied that Dr Zeeshan could return to work in the A&E department although he was initially moved to another department. Mr Rich reminded the Tribunal of Dr Zeeshan's appraisals; the statement from Dr Zeeshan's RO; and the courses he has completed. Mr Rich reminded the Tribunal that Dr Zeeshan continues to be a very highly regarded colleague who has consistently demonstrated the qualities that make him an invaluable member of the clinical team. He said that the RO makes clear in their statement that Dr Zeeshan has reflected on his overall practice, particularly around intimate examinations and the use of chaperones and professional boundaries.

16. In relation to assessing the risk of repetition, Mr Rich submitted that the principles established in the case of *GMC v Gilbert* may assist the Tribunal. He added that the testimonial evidence was a very important consideration even at this stage, in determining what would be the proportionate sanction. Mr Rich referred the Tribunal to the guidance and submitted that the Tribunal had the option to suspend Dr Zeeshan and to direct a review hearing, where Dr Zeeshan would have to demonstrate to the reviewing Tribunal how he had developed further insight into the concerns and what steps he had taken to remediate.

17. Mr Rich acknowledged that the protection of the public comes above anything, but he asked the Tribunal to be mindful of the impact a loss of an entire career would have on Dr Zeeshan. Mr Rich submitted that this was not a case where, if it were to be shown that Dr Zeeshan had remediated and had shown insight into what he did, erasure would be required to maintain public confidence in the profession. Mr Rich submitted that the misconduct found in this case can be properly remediated and that a period of suspension for 12 months

would be proportionate and would protect the public interest and maintain public confidence in the medical profession.

18. In all the circumstances, Mr Rich invited the Tribunal to impose a sanction of suspension for up to the maximum period of 12 months.

The Tribunal's Approach

19. The Tribunal accepted legal advice and the procedure to be adopted under the MPTS Guidance (*Section three: MPT Hearings > Part C: stage three – sanction > Step 3: decide on sanction).* This is appended to this determination.

20. The Tribunal had regard to the relevant sections of the MPTS Guidance.

21. The Tribunal was reminded that the decision as to the appropriate sanction, if any, to impose was a matter for its independent judgement which it must exercise fairly, starting with the least restrictive. The Tribunal was mindful that, whilst the Tribunal found Dr Zeeshan's misconduct fell at the higher end of the spectrum of seriousness, the misconduct in this case, was in the Tribunal's view, not at the highest level of that spectrum. The Tribunal considered that offences such as rape are more likely to fall at the highest level of that spectrum within the banding.

22. The Tribunal reminded itself that, in determining whether to impose a sanction, it should have regard to the principle of proportionality and should start by considering the least restrictive option. It had regard to paragraph 7 set out in the 'Introduction' section of the MPTS Guidance which states:

> *'Being proportionate*
> *7. To be proportionate, a tribunal must ask themselves, in the context of the individual case and decision being made, what is required and no more than necessary to meet the GMC and MPTS' legal duty to protect the public in a timely way. To assess what is proportionate, tribunals should be clear on the options available to them.'*

23. It noted that counsel are agreed in their respective submissions that concluding the case with no action would not be appropriate, nor would imposing a period of conditional registration. However, the Tribunal is mindful that the decision as to the appropriate sanction in this case is a matter for it alone, exercising its own independent judgement. It therefore considered the sanctions in ascending order of severity in relation to Dr Zeeshan's misconduct.

24. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Zeeshan's interests with the public interest. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although the sanction may have a punitive effect.

The Tribunal's Determination on Sanction

25. The Tribunal had regard to paragraph 62 of the relevant section of the MPTS Guidance, which sets out the sanction's bandings for specific types of cases. The Tribunal also bore in mind its findings at the impairment stage that Dr Zeeshan's conduct was at the higher end of the spectrum of seriousness and that he poses a high level of current and ongoing risk to public protection.

26. It noted that the suggested sanction in sexual misconduct cases under the sanctions bandings at the higher level of risk is one of 12 months' suspension to erasure as set out in the table below:

Case type	Lower level of risk to public protection	Medium level of risk to public protection	Higher level of risk to public protection
Sexual misconduct	Suspension up to 6 months	Suspension 6 to 12 months	Suspension 12 months to Erasure

27. The Tribunal reminded itself that the sanctions bandings are intended to provide a guide, and that there may be evidence relevant to the individual circumstances of the case that indicate a sanction which is more or less restrictive than that suggested in the bandings.

28. 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 Dr Zeeshan poses to public protection. It has referred to the sanctions banding for cases involving sexual misconduct in Part C of the MPTS Guidance, as set out above. It has also considered the impact of any specific sanction type, where applicable, and any references or testimonials provided.

29. The Tribunal reminded itself of the mitigating features in this case, as identified in its determination on impairment: that he has continued to work since these events without any further concerns; that he has some insight into some aspects of his clinical practice, particularly in relation to chaperones; and the testimonials from Dr Zeeshan's clinical colleagues, and his appraisals.

30. The Tribunal reminded itself of the aggravating features in this case, as identified in its determination on impairment, that Dr Zeeshan has acted in a sexually motivated way towards two junior colleagues and has taken advantage of situations for his own gratification.

31. Throughout its deliberations, the Tribunal had regard to the statutory overarching objective to protect patients set out in section 1 of the Medical Act 1983:

a. to protect, promote and maintain the health, safety, and wellbeing of the public
b. to maintain public confidence in the profession

c. to promote and maintain proper professional standards and conduct for members of the profession

32. The Tribunal was mindful of Dr Zeeshan's written and oral evidence, as well as the testimonial evidence. It has reviewed its decision on facts and impairment and has considered the level of current and ongoing risk Dr Zeeshan poses to public protection. It has referred to the sanctions banding for cases involving sexual misconduct as set out in Part C of the MPTS Guidance, as set out above. It has also considered the impact of any specific sanction type, where applicable.

33. The Tribunal was mindful of bullet point 2 under paragraph 10 of the MPTS Guidance. This states:

> *'….*
> *When considering the impact on those affected by the decision, the interests of individual patients and members of the public may include the impact that taking a specific type of action is likely to have on the delivery of health services in a particular speciality or within a defined geographical location. However, whilst there may be a public interest in facilitating a doctor's return to safe practice, the decision on what sanction is required needs to reflect the level of current and ongoing risk to one or more of the three parts of public protection that has been identified, and which takes into account the seriousness of the allegations, and must be consistent with the GMC and MPTS' legal role to protect the public.*
> *….'*

No action

34. The Tribunal first considered whether to conclude the case by taking no action. It considered paragraphs 13 – 16 of Section 3 of the MPTS Guidance which relate to consideration of 'Taking no action'. it noted in particular paragraph 13 states:

> *'Where a doctor's fitness to practise is impaired, it will usually be necessary for the MPT to restrict the doctor's registration to achieve public protection. But there may be exceptional circumstances to justify an MPT taking no action. Exceptional circumstances are unusual, special, or uncommon, so such cases are likely to be very rare.'*

35. The Tribunal was mindful of the common ground between the parties as set out above at paragraph 23. The Tribunal determined that, given the facts in this case and the nature of the sexual misconduct found, there are no exceptional circumstances which would warrant the taking of no action in the context of the facts found proved and the Tribunal's determination on impairment. It considered that the taking of no action would not be sufficient, proportionate, or in the public interest.

Conditions

36. The Tribunal next considered whether to impose conditions on Dr Zeeshan's registration. As a starting point, the Tribunal noted that the sanctions bandings for sexual misconduct do not indicate that conditions would be an appropriate and proportionate sanction in cases involving sexual misconduct where a high level of risk to public protection has been identified.

37. The Tribunal had regard to paragraphs 17 to 30 of the relevant section of the MPTS Guidance which provide an indication of cases where conditions are likely to be suitable. In particular, the Tribunal noted paragraphs 28 – 30 which state:

> *'28. Conditions may be proportionate in cases where the doctor has shown a degree of insight into the allegation and some, or all, of the following factors are present:*
>
> *a. the doctor has demonstrated they are willing and/or able to remediate*
> *b. identifiable areas of the doctor's practice need prohibiting, monitoring, or retraining*
> *c. the doctor has demonstrated they are willing to be open and honest with patients and others they work with if things go wrong*
> *d. the doctor will not put patients at harm, either directly or indirectly, by having conditions on their registration.*
>
> *29. A doctor may have demonstrated they are willing and able to remediate where they've provided evidence that they're committed to improving their knowledge and skills and keeping them up to date throughout their working life, improving the quality of their work and seeking and responding to feedback. They may not have demonstrated they are willing and/or able to remediate where there is evidence there have been previous unsuccessful attempts to remediate, or where there is evidence the doctor has been unwilling to engage.*
>
> *30. Conditions are unlikely to be a proportionate response in cases where the nature of the allegations about the doctor's behaviour fall at the higher end of the spectrum of seriousness and/or suggest an underlying problem with their attitude.'*

38. It bore in mind that any conditions imposed must be appropriate, proportionate, workable and measurable. The Tribunal had regard to the guidance that, for conditions to be appropriate, they must address the specific findings about the current and ongoing risk to public protection posed by the doctor. The Tribunal reminded itself of its findings that Dr Zeeshan had breached fundamental tenets of the medical profession and that his actions, which involved sexual touching, were sexually motivated and for his own sexual gratification. The Tribunal considered that this was not conduct which could properly be addressed by conditions on Dr Zeeshan's registration. The Tribunal therefore determined that it was not possible to formulate conditions to address the risks associated with Dr Zeeshan's sexual misconduct.

39. The Tribunal concluded that the imposition of conditions would be insufficient to protect the public or to satisfy the wider public interest and would not be proportionate.

Suspension

40. The Tribunal then considered whether suspension is the appropriate sanction in this case.

41. The Tribunal had regard to paragraphs 41 – 54 of the MPTS Guidance. These paragraphs deal with when suspension might be considered the appropriate sanction. In particular, the Tribunal noted paragraphs 44 and 45(b) state:

> *'44 Restrictive action of suspension is intended to address the level of current and ongoing risk to public protection and is not intended to be punitive. However, as it prevents a doctor from working and earning a living within that profession, it can have this effect. Suspension can also have a deterrent effect and be used to send a signal to the individual doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor.*
>
> *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*
>
> *b. the level of current and ongoing risk to public protection is such that it cannot be safely managed with conditions and suspension is necessary to stop the doctor from working and putting patients at risk while they gain insight into any deficiencies and remediate, or undergo medical treatment, and/or*
>
> *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.'*

42. The Tribunal reminded itself that the purpose of suspension is to remove a doctor from practice to manage the current and ongoing risk they pose to public protection with the aim they should be able to return safely to unrestricted practice in the future. Suspension can have a deterrent effect and be used to send a signal to the doctor, the profession and the public about what is regarded as behaviour unbefitting of a registered doctor. The Tribunal needs to be satisfied as to whether any sanction less than erasure would be sufficient to address the three limbs of public protection, noting that it had found all three limbs of public protection were engaged in this case.

43. The Tribunal bore in mind that the sanctions bandings table at paragraph 62 of the relevant section of the MPTS Guidance, as set out above, indicates that a lengthy period of suspension or erasure may be the appropriate and proportionate outcome in cases involving sexual misconduct at the higher end of risk to public protection.

44. The Tribunal found at the impairment stage that Dr Zeeshan's sexual misconduct was at the higher end of the spectrum of seriousness. It reminded itself that Dr Zeeshan's actions had caused harm to both Ms A and Ms B. The Tribunal found that his misconduct was predatory, and he exploited the opportunities presented to him. The Tribunal has found that Dr Zeeshan's sexual misconduct has brought the medical profession into disrepute, that he has breached paragraphs 1, 36 and 65 of GMP, and that his actions fell short of the standards of conduct expected of medical practitioners. Further, the Tribunal was mindful that Dr Zeeshan denied the allegations. It was therefore unable, in the absence of any comprehensive evidence of insight and remediation, to assess the risk of repetition. The Tribunal determined, therefore, that Dr Zeeshan may pose a risk of repeating his misconduct.

45. The Tribunal took into account that Dr Zeeshan has taken steps to address some of the clinical aspects of his practice. This included completion of courses in relation to consent and he now offers and insists on a chaperone being present when carrying out any examinations of patients in the A&E department. It was submitted by Dr Zeeshan's legal representative, and the Tribunal accepted, that this practice was beyond what is required of doctors in that setting. Further, the Tribunal was presented with testimonials from his clinical colleagues all of whom attest to his clinical work and character and hold him in high regard as a valued member of the clinical team.

46. Further, the Tribunal noted the testimonial from Dr L and the statement from Dr Zeeshan's RO, Professor M. The Tribunal was mindful, however, that both predate the Tribunal's findings on facts and therefore, they would have been written without the knowledge of the facts found proved. Dr L describes Dr Zeeshan as a highly valued member of the team since 2019, adding that Dr Zeeshan has *'consistently demonstrated the qualities that make him an invaluable member of our team'*. He goes on to point to Dr Zeeshan's clinical work, the supervision he offers junior staff and his leadership and communication skills, based on his own direct experience of Dr Zeeshan's work on multiple occasions when he has worked with Dr Zeeshan on the "shop floor".

47. Professor M states *'Dr Zeeshan has reflected on his overall practice as a doctor, particularly around intimate examinations and chaperones, his communication with patients and professional boundaries … Dr Zeeshan has confirmed that he does not see any patients without a chaperone'*. They go on to say that Dr Zeeshan has expressed regret for his actions.

48. The Tribunal considered that, given that Dr Zeeshan has contested the allegations made against him, he has not had the opportunity to demonstrate insight and remediation into the proven allegations. The Tribunal was of the view that the misconduct found in this case is remediable, and that, given the opportunity, Dr Zeeshan may be able to demonstrate sufficient evidence of insight and remediation, such that the risk of his repeating his misconduct may be considered to be low.

49. In the circumstances, and taking all the evidence before it, the Tribunal considered that a period of suspension is the appropriate and proportionate sanction in this case. The

Tribunal was satisfied that a period of suspension would be sufficient to address the three limbs of public protection – that is:

a. to protect, promote and maintain the health, safety, and wellbeing of the public
b. to maintain public confidence in the profession
c. to promote and maintain proper professional standards and conduct for members of the profession

50. Further, the Tribunal considered that the risk to the three limbs of public protection would be managed as Dr Zeeshan would not be able to work while his registration is suspended.

Length of the suspension

51. In determining the length of the suspension, the Tribunal had regard to the table set out at paragraph 62 of Section 3 of the MPTS Guidance. The table indicates that the sanction for a higher level of risk to public protection in relation to sexual misconduct falls under the 'Suspension 12 months to Erasure' banding.

52. The Tribunal had regard to paragraph 46 of the MPTS Guidance which states,

> *'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 15 Section 35D(2)(b) of the Medical Act 1983 (as amended)*
> > *b. the reasons for assessing suspension as being the proportionate response*
> > *c. the amount of time the doctor is likely to need to remediate, complete treatment for and/or recover from a health condition that is having, or is likely to have, an impact on their ability to practise safely and effectively, and/or*
> > *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.'*

53. The Tribunal is satisfied that the appropriate period of suspension falls within 'Suspension 12 months to Erasure' banding. In the Tribunal's judgement, given all the circumstances in this case, the appropriate sanction is the maximum period a suspension can be imposed of 12 months with a review.

Erasure

54. In view of the seriousness of Dr Zeeshan's misconduct, however, the Tribunal also carefully considered whether erasure would be an appropriate sanction. The Tribunal considered paragraphs 55 – 59 of Part C of the MPTS Guidance, particularly paragraphs 55 and 57(a – d) which state:

> *'55. Erasure is action available for those cases where a doctor's behaviour, performance, or the impact that a health condition is having on their ability to practise safely and effectively, is incompatible with continued registration at this point in time. It means the level of current and ongoing risk the doctor poses to public protection is so significant that they should not be allowed to practiser'*
>
> *'57. Erasure may be the proportionate response where:*
>
> *a. conditions are not appropriate, measurable and/or workable and suspension is not sufficient to protect the public.*
> *b. the doctor's behaviour or performance is such that it caused serious harm, and the risk of harm recurring cannot be mitigated sufficiently through putting conditions or suspension in place*
> *c. the doctor has shown a persistent lack of insight into the seriousness of the allegation about their behaviour or performance and the potential or actual consequences, and/or*
> *d. the seriousness of the facts found proven and/or impact of any relevant context that increased the current and ongoing risk to public protection mean the effect of the doctor continuing to hold registration is such that it will undermine public confidence in the profession.'*

55. It also had regard to paragraph 73 of the Introduction document to the MPTS Guidance which states:

> *'73. Because the level of current and ongoing risk to public protection will generally be medium or high, this will require consideration of suspension or erasure. In cases where sexual misconduct is found to be sexually motivated, the inherent seriousness is likely to be high and make any outcome short of erasure inappropriate.'*

56. It had regard to the table set out at paragraph 74 of the Introduction document to the MPTS Guidance:

Lower level of risk to public protection	Medium level of risk to public protection	Higher level of risk to public protection
Suspension up to 6 months	Suspension 6 to 12 months	Suspension 12 months to Erasure

57. The Tribunal found that Dr Zeeshan's behaviour was a serious departure from GMP, and was serious misconduct, and involved him conducting sexually motivated examinations on two female junior colleagues in a clinical setting, and that his behaviour was predatory

and opportunistic. It has determined that all three limbs of public protection are engaged in this case.

58. However, the Tribunal could not determine that Dr Zeeshan had shown a persistent lack of insight into the seriousness of the allegations against him and his denial alone should not be held to show this. The Tribunal accepted that a case could be made for erasure being the appropriate sanction but that the principle of proportionality meant that, as it had determined that the public could be protected with the lesser sanction of a long suspension with a review, that remained the appropriate sanction to impose.

59. The Tribunal considered that it was appropriate, in the circumstances of this case, given that Dr Zeeshan had contested the allegations which he was entitled to do so, to allow him an opportunity to show that he had developed insight into the concerns identified, and that he had taken steps to remediate his misconduct. It was mindful that should Dr Zeeshan not demonstrate any further or sufficient insight as the Tribunal had suggested, a future Tribunal reviewing his case would have the option to consider erasure at that point. However, at this point in time, the Tribunal considered that erasure would be disproportionate.

Review

60. The Tribunal had regard to paragraphs 52 of the MPTS Guidance which states:

> *'52. The question of whether the doctor can safely return to unrestricted practice will need to be considered before a period of suspension concludes and so a review should be directed. The exception to this is where a short suspension (usually three months or less) has been imposed on public confidence grounds and/or to maintain professional standards.'*

61. The Tribunal has determined to direct a review of Dr Zeeshan's case because of the nature of the misconduct, and because it was necessary to see that he has developed insight into the proven allegations and taken steps to remediate. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing the onus will be on Dr Zeeshan to demonstrate evidence of his insight and remediation.

62. It therefore may assist the reviewing Tribunal to receive evidence of the following:

- A reflective statement from Dr Zeeshan on these matters;
- Further evidence of Dr Zeeshan's insight in relation to his misconduct;
- Comprehensive evidence of what Dr Zeeshan has done to address the findings of the Tribunal;
- Evidence of ongoing CPD and that he has kept his medical knowledge and skills up to date;
- Further testimonials demonstrating his insight and remediation;
- Any other information Dr Zeeshan may consider relevant to his case.

63. This list is not exhaustive and it will be for Dr Zeeshan to provide sufficient evidence to the reviewing Tribunal.

Legally Qualified Chair's advice:

'Stage 3: Rule 17(2)(N) – Sanction

Legal advice on sanction.

27. The Tribunal now has to decide, in accordance with Rule 17(2)(n) of the Rules, on the appropriate sanction, if any, to impose.

28. The Tribunal will need to remind themselves of their earlier conclusion as to risk.

29. When conducting an updated assessment of risk, the MPT must avoid "double counting" evidence that previously informed, and was therefore taken into account in reaching, their earlier decision on impairment. Where there is relevant additional evidence, the MPT must consider it and identify any additional factors capable of increasing or decreasing the level of current and ongoing risk to public protection posed by the doctor.

30. We also need to consider any mitigating and aggravating factors and balance these against the central aim of the sanctions as expressed above.

31. In reaching its decision the Tribunal should take into account the sanctions bandings and matters referred to therein, and the statutory overarching objective which includes protecting and promoting the health, safety and wellbeing of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct. We 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.

32. We need to keep in mind that sanctions are not there to punish the Doctor but may have a punitive effect.

33. We must also keep in mind where applicable, that each reference to protecting the public in the guidance, should be read as including the three limbs of the overarching objective.

34. Whilst there may be a public interest in facilitating a doctor's return to safe practice, the decision on what sanction is required needs to reflect the level of current and ongoing risk to one or more of the three parts of public protection that has been identified, and which takes into account the seriousness of the allegations, and must be consistent with the GMC and MPTS' legal role to protect the public.

35. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment. In making its determination the Tribunal should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity. The Tribunal should also consider proportionality by weighing the public interest against the interests of the Doctor.

36. Where the MPT's decision is to impose a sanction that is lower, or higher, than that suggested by the guidance and any relevant sanctions bandings, the MPT should provide reasons as to why this is justified given the individual circumstances of the case.

37. Where the MPT imposes a sanction, it must consider if an immediate order is needed and/or if any action is required in respect of any existing interim order that may be in place.

38. Any sanction must be proportionate, transparent and fair.

39. The sanctions available to the Tribunal are:

    a) Take no action
    b) Conditions
    c) Suspension
    d) Erasure

<u>Additional evidence that may be relevant to the decision on what sanction is proportionate</u>

40. The following matters are not relevant to the assessment of current and ongoing risk to public protection which will have informed the MPT's decision on impairment, but can be considered at this stage when deciding what sanction is proportionate:

a) evidence about the impact that taking a specific type of action may have on patients or members of the public, or the doctor themselves, and/or
b) references and testimonials about the doctor's character.

41. I refer the tribunal to the relevant sections of the MPT hearings guidance which we should consider when considering sanction.

Reasons

42. As at the impairment stage, we must give written reasons for our decision.

Comment from Counsel?

43. That is the advice that I give my colleagues at this stage. I invite any comments from either counsel in case I have missed out any aspects that you feel my colleagues should be advised about.

Additional advice regarding the recent case of *GMC & PSA v James Gilbert* [2026] EWCA Civ 53

Summary of the proceedings

Dr James Gilbert, faced fitness to practise proceedings concerning allegations spanning 2009 to 2022. The allegations included sexually motivated comments and unwanted physical contact towards junior female colleagues, as well as racist remarks made in clinical settings, sometimes in the presence of patients.

The MPTS Hearing (August 2024)

The Tribunal found most allegations proved and imposed an 8-month suspension without review, concluding the conduct was serious but remediable. It found that Dr Gilbert had taken significant steps to remediate and therefore suspension was sufficient to protect the public.

The High Court Appeal [2025] EWHC 802 (Admin)

The GMC appealed the decision, joined by the PSA, seeking erasure. Mr Justice Calver heard the appeal and, in a decision dated 3 April 2025, upheld two additional allegations regarding racist comments about patients and increased the suspension to 12 months with review but rejected erasure, finding the Tribunal's remediability assessment sound.

The Court of Appeal [2026] EWCA Civ 53

The GMC appealed again. The PSA, joined as second respondent, sought permission to cross-appeal. The GMC argued: (1) erasure should have been imposed given the nature of the misconduct (permission to appeal on this ground was refused by Lord Justice Zacaroli); and (2) 7 out of 10 erasure factors in paragraph 109 of the Sanctions Guidance (which indicate that erasure is appropriate) were present, therefore erasure was not only appropriate but necessary; and ultimately that Calver J should have sent the matter back to the Tribunal. The PSA argued Calver J failed to adequately address patient safety risk and whether such conduct, being sexually and racially motivated, was inherently irremediable. The CoA dismissed all grounds of appeal, holding that sanctions guidance is not a tick-box exercise and remediability must be assessed on evidence, not categorical assumptions.

Evaluation as to the appropriate sanction

The Court of Appeal said the following:
"62. In a case where several allegations have been found proved and the Tribunal is deciding whether the ultimate sanction of erasure is necessary the judgment should be based on an evaluation of the overall gravity of the matter. This is a question of substance rather than of counting how many factors out of ten were present and on how many occasions, as though paragraph 109 was a form of score sheet against which the Tribunal should place ticks or crosses and then count up the number of ticks. This is especially so because a particular incident may be described in a number of ways. The GMC's somewhat repetitive style of pleading allegations runs the risk of encouraging a score sheet approach."

It is clear from this paragraph that the Tribunal should have regard to the overall substance of the proven matters and not take the approach of purely counting the factors that are present when making its decision on sanction.

The Court identified a flaw in that approach(counting):
Because the same conduct can be described in multiple ways. For example, a single incident of inappropriate sexual comments towards a colleague in a clinical setting might simultaneously be characterised as:

a) sexual misconduct;
b) abuse of a senior position;
c) conduct bringing the profession into disrepute; and
d) conduct showing disregard for patient safety.

If each counts as a separate "tick," the same behaviour is counted multiple times, artificially inflating its apparent severity. This was found to be particularly problematic when combined with what the Court described as "the GMC's somewhat repetitive style of pleading allegations" which "runs the risk of encouraging a score sheet approach." If allegations are drafted in overlapping ways, they can create multiple findings from a single course of conduct.

Remediation

"73. I can understand why both appellants might consider Mr Gilbert to be fortunate to have escaped erasure. This was, on any view, a serious case, particularly because he had not seen the error of his ways in 2012, as he claimed to have done. However, erasure was not the only rational outcome of the disciplinary process, as Zacaroli LJ explained when he refused the GMC permission to appeal on Ground 1. On examination, the submissions of the PSA turned out to be little more than variants on that ground of appeal. Ms Morris complained that Calver J had not addressed the question whether the behaviour which amounted to misconduct was of a nature that was easy or difficult to remediate, and that this was a necessary precursor to determining whether there was a sufficient likelihood of remediation. However this was just a roundabout way of submitting that, where conduct of this type is concerned, to use the vernacular, a leopard cannot change its spots, and any rational evaluation would have led to the conclusion that remediation was impossible (and thus that suspension was inappropriate). The judge rejected that submission at [118] for unimpeachable reasons."

The Tribunal must have in mind that such conduct is serious and warrants significant sanctions, requires public confidence to be maintained and must properly consider victims' experiences. However, these factors do not automatically preclude the possibility of remediation.

Risk of harm

"74. Ms Morris also submitted that acting to put a patient at risk is what matters in the context of discipline, and that a finding that a doctor's behaviour was capable of doing so was

enough to warrant a conclusion that patients were put at "unwarranted risk of harm", without the necessity to demonstrate that patients were actually put at risk. However, as the Vice President has pointed out at [66], there is a distinction between conduct which actually puts a patient at risk, and conduct which is capable of imperilling patient safety, but in fact does not. Contrary to Ms Morris's submission, that distinction is not an artificial one, and could rationally make a difference when deciding what sanction is necessary and proportionate for the protection of the public and maintenance of professional standards."

The Tribunal must have in mind that proven allegations, depending on the circumstances, may be capable of impacting patient safety. However, capability alone does not automatically transform a case into a "patient safety" case.

In conclusion the approach that would take into account the matters in this case, is as follows and the Tribunal should:

- consider the overall gravity of misconduct in its full context;
- weigh all relevant factors together rather than in isolation;
- focus on the substance of what the registrant actually did;
- take into account the particular circumstances of the case; and
- assess what sanction is necessary and proportionate for public protection and maintaining professional standards.'

Determination on Immediate Order - 03/03/2026

1. Having determined that Dr Zeeshan's registration should be suspended for a period of twelve months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order of suspension.

Submissions

On behalf of the GMC

2. Mr Rose referred the Tribunal to the statutory test to be applied when considering an immediate order. He submitted that an immediate order ought to be made for the protection of the public and in the public interest to maintain public confidence in the profession. He submitted that this is based on the proven conduct, and the ongoing risk as identified by the Tribunal in its determinations on impairment and sanction, and the impact on the public

confidence in the profession if Dr Zeeshan were permitted to practise unrestricted, pending any appeal. Mr Rose added that it was not just the appeal period but also the additional period before the outcome of any appeal was known, during which Dr Zeeshan would otherwise be able to practise unrestricted.

3. Mr Rose submitted that limited weight should be given to time being allowed for the doctor to get his affairs in order or make provisions for his practice to be covered. He added that Dr Zeeshan works in a hospital and so it is not as though he is the sole partner in a GP practice. He invited the Tribunal to consider paragraph 84 which states it will not usually be appropriate for a doctor to hold unrestricted registration until a sanction takes effect in cases where the doctor poses a risk to patient safety. He reminded the Tribunal that it had found that Dr Zeeshan may pose a risk, and consequently there must be a degree of risk to members of the public who would be having any form of intimate examination from the doctor, or there would be a risk to one or more parts of public protection. He added that given the nature of the misconduct in this case, that risk falls in the high-risk category.

4. Mr Rose submitted that immediate action is required for the protection of the public and to maintain public confidence, adding that the public would not have confidence in the profession if Dr Zeeshan were allowed to practise unrestricted, even for a short time scale and certainly not for the sort of time scale involved should he decide to appeal the decision. Mr Rose invited the Tribunal to impose an immediate order.

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

5. Mr Rich also referred the Tribunal to the statutory test to be applied, and to the MPTS Guidance, in particular paragraph 80. Mr Rich reminded the Tribunal that Dr Zeeshan has been working in the hospital without any restrictions whatsoever on him for the five years since the events and clearly has not succumbed to any possibility of repeating his misconduct. He submitted that paragraph 81 of the MPTS Guidance deals with considering the interests of the doctor and he referred the Tribunal to its determination on sanction in this regard. He acknowledged that this was of limited weight because the Tribunal's main consideration is public safety.

6. Mr Rich reminded the Tribunal of his submissions at sanction stage as to the impact of any sanction on the doctor's personal and financial circumstances. He submitted that if there were to be no appeal from either side in this case, then the period before the sanction took effect would only apply for one month. He said that the issue about the length of time cuts

both ways in the sense that if there were an appeal, Dr Zeeshan would be prevented from practising for even longer while pending the outcome of that appeal.

7. Mr Rich referred to paragraph 84(a) of the MPTS Guidance, which he submitted is key, because the Tribunal was unable to make an assessment, for the reasons set out in its determination on impairment, as to the risk of repetition, but has determined that the risk of repetition may be low.

8. Mr Rich acknowledged that Dr Zeeshan would have been under scrutiny for the past five years and therefore that would have acted as a safeguard and prevented any repeat of his misconduct. However, Mr Rich submitted that, given the Tribunal's determination on sanction, Dr Zeeshan would remain under scrutiny and so the fact Dr Zeeshan would no longer be able to work, this point does not carry any weight. Mr Rich submitted the risk to patient safety does not exist to the extent that it would warrant an immediate order being made. He invited the Tribunal not to impose an immediate order.

The Tribunal's Determination

9. Pursuant to section 38(1) of the 1983 Act, on giving a direction for suspension, the Tribunal may impose an immediate order (of suspension in this case) if it considers it necessary for the protection of members of the public or if it is otherwise in the public interest.

10. The Tribunal had regard to the relevant paragraphs of the MPTS Guidance, including:

> *'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*
> *c. immediate action is needed to maintain public confidence in the medical profession.'*

11. The Tribunal considered its findings at previous stages in relation to Dr Zeeshan's misconduct. It assessed the level of current and ongoing risk posed to public protection to be high and in relation to all three limbs of public protection.

12. The Tribunal considered that an immediate order is necessary in this case so as to protect, promote and maintain the health, safety, and wellbeing of the public; to maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession. The Tribunal considered that the only way to manage the current and ongoing risk is to impose an immediate order.

13. While the Tribunal notes that Dr Zeeshan has worked at the hospital for almost five years without any further concerns, and that it was currently unable to quantify the risk he presented, and that the risk of repetition may be low, it considered that this did not negate the need for an immediate order for the purpose of addressing the three limbs of public protection. This is particularly the case in relation to public confidence in the profession and the impact upon this should Dr Zeeshan be allowed to continue to work unrestricted for a further 28 days.

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

15. The Tribunal noted that there is no interim order to be revoked.

16. That concludes the case.

Legally Qualified Chair's advice:

'Legal advice on immediate order.

1. The relevant rule is Rule 17(2)(o) of the FTP Rules.
   The sanctions guidance deals with immediate orders at paragraphs 172 to 178.
2. The Tribunal must bear in mind the test to be applied with regards to imposing an immediate order. It may impose an immediate order if it determines that it is necessary to protect members of the public, is otherwise in the public interest, or is in the best interests of the doctor.

3. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending an appeal, and against the wider public interest, which may require an immediate order.
4. 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.
5. 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
   c) immediate action is needed to maintain public confidence in the medical profession.'