PUBLIC RECORD

**Dates**: 08/08/2022 - 26/08/2022

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| **Medical Practitioner's name:** | Dr Mahmoud AHMED |
| **GMC reference number:** | 4328919 |
| **Primary medical qualification:** | MB ChB 1980 University of Alexandria |

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

**Summary of outcome**

No action (warning not considered)

**Tribunal:**

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| Legally Qualified Chair | Miss Deborah Gould |
| Lay Tribunal Member: | Ms Elizabeth Daughters |
| Medical Tribunal Member: | Dr Candida Borsada |

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| Tribunal Clerk: | Mr Francis Ekengwu |

**Attendance and Representation:**

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| Medical Practitioner: | Present and represented |
| Medical Practitioner's Representative: | Mr Miles Bennett, Counsel, instructed by MDU |
| GMC Representative: | Mr Ciaran Rankin, Counsel, instructed by GMC Legal |

## 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. 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 - 26/08/2022

## Background

1. Dr Ahmed qualified in Egypt in 1980, obtaining an MBChB from Alexandria Medical School. He began his career as a GP in Egypt then moved to Saudi Arabia. In 1990, Dr Ahmed came to the United Kingdom and trained as a psychiatrist at the Royal Edinburgh Hospital. In 1993, Dr Ahmed attained the Board Certificate in Psychiatry (an equivalent of the MRCPsych) from the London Institute of Psychiatry and then attained his 'DPM' from the Royal College of Surgeons & Physicians in Ireland 1994.

2. Between 1996 and 1999, Dr Ahmed worked as a Senior Clinical Medical Officer in Barnsley. Thereafter, until 2019, he undertook locum consultant work in General Adult Psychiatry changing the focus of his work to Older Adult Psychiatry. During this time Dr Ahmed was admitted to the Specialist Register for Older Adult Psychiatry in 2007 and the Special Register for General Adult Psychiatry in 2009. Between 2009 to 2015, Dr Ahmed was substantively employed as a consultant in Older Adult Psychiatry at Aneurin Bevan University Health Board. In 2015 Dr Ahmed began his current post as a consultant in General Adult Psychiatry with Small Heath Health Centre, part of the Birmingham and Solihull Mental Health Foundation Trust, initially as a locum and substantively since 2017.

3. Dr Ahmed is a medical member of the first tier Mental Health Review Tribunal, a section 12 approved doctor and a senior clinical examiner at the University of Birmingham. He has been the president of the British Arab Psychiatrist association for the last five years and is also

a member of the transcultural psychiatry group and the diaspora group of the Royal College of Psychiatrists.

4. The Allegations that have led to this case can be summarised as follows:

On 13 April 2018, during a consultation with Patient A, it is alleged Dr Ahmed dismissed Patient A's concerns saying there was nothing wrong with her, made unprofessional or inappropriate comments and failed to introduce the topic of reporting her allegation of historic rape to the police or safeguarding authorities. On 30 January 2020, Dr Ahmed during a second consultation with Patient A, is alleged to have communicated inappropriately and unprofessionally with her and failed to record some of his actions in relation to the consultation and Patient A's ongoing care.

5. On 30 April 2019, in respect of Patient B, Dr Ahmed is alleged to have failed to provide appropriate advice in relation to the cessation of medication, failed to obtain informed consent in relation to the same and failed to properly record those actions. He is also alleged to have made a number of unprofessional and inappropriate comments to Patient B.

6. In a further consultation on 15 May 2019, it is alleged that Dr Ahmed failed to properly discuss and record aspects of Patient B's medical history, treatment, medication, and reasons for the distress said to underlie her referral to him.

7. It is further alleged that on 11 February 2020 during a consultation with Patient C, Dr Ahmed communicated unprofessionally or inappropriately with Patient C both by words and by tone. Finally, he is alleged to have introduced religion and moral judgment into the consultation and criticised the care of another doctor who had previously been responsible for Patient C's care.

8. The initial referral to the GMC with regard to these matters was as a result of concerns raised by Patients A, B and C via the NHS complaints process.

## The Outcome of Applications Made during the Facts Stage

9. During the Facts Stage of the proceedings, Mr Rankin, Counsel for the GMC, made four applications which are set out in Annexes A, B, C and D. Applications A, B and D were unopposed by Mr Bennett, Counsel for Dr Ahmed. The Tribunal granted each application and the decision in respect of each is set out in those Annexes. In relation to Annexes A, B, and D

made pursuant to Rules 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), these were to withdraw paragraphs of the Allegation, to amend paragraph 4(d) and amend paragraphs 3(b) and 4(b), respectively.

10. The Tribunal refused Mr Rankin's application pursuant to Rule 36(1)(b) and Rule 36(2) to treat Patient A, Patient B and Patient C as vulnerable witnesses and for special measures to be applied to each witness. The application and the Tribunal's ruling are set out in Annex C.

11. At the close of the GMC's case, Mr Bennett made an application on behalf of Dr Ahmed pursuant to Rule 17(2)(g) of the Rules, that there was no case to answer in respect of paragraphs: 1a(i-iv), 1b(i-iv), 1d, 1f(i -ii), 2b-e, 2g(v-vi), 3a(ii -iii), 3e (i-iii), 3g(i), 3g(v), 4a(i-iii), 4c, 5b(i-iv), 5c-d, 5m(ii) of the Allegation. Mr Rankin, on behalf of the GMC, did not oppose the application. He conceded that as a result of expert evidence called on behalf of the GMC from Dr F, that there was no evidence that those paragraphs could be proved under the first limb of *R v Galbraith (George Charles) [1981] 1 W.L.R. 1039*. This application and the Tribunal's determination are set out in Annex E.

## The Allegation and the Doctor's Response

12. The Allegation made against Dr Ahmed is as follows:

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

### Patient A

1. On ~~6~~ 13 April 2018, you consulted with Patient A and you; Amended under Rule 17(6):

~~a. failed to obtain an adequate medical history, including:~~

~~i. any physical illness;~~ Withdrawn under Rule 17(2)(g)

~~ii. current prescription medication;~~ Withdrawn under Rule 17(2)(g)

~~iii. allergies;~~ Withdrawn under Rule 17(2)(g)

~~iv. adverse reactions to prescription medication;~~ Withdrawn under Rule 17(2)(g)

~~b. failed to risk assess her in relation to:~~

~~i. self-harm;~~ Withdrawn under Rule 17(2)(g)

~~ii. suicide;~~ Withdrawn under Rule 17(2)(g)

~~iii. neglect;~~ Withdrawn under Rule 17(2)(g)

~~iv. exploitation;~~ Withdrawn under Rule 17(2)(g)

~~v. risk of harm to others;~~ Withdrawn under Rule 17(6)

c. dismissed her concerns by stating that there was nothing wrong with her or words to that effect; To be determined

~~d. placed undue reliance on encouraging her to return to work;~~ Withdrawn under Rule 17(2)(g)

e. communicated inappropriately and/or unprofessionally with Patient A in that you:

i. told her that she would encounter future trauma, in the form of further abuse or words to that effect; To be determined

ii. told her that a 'man can't rape his wife so there was no rape' or words to that effect; To be determined

iii. failed to introduce the topic of reporting the allegations made by Patient A to:

i. the Police; To be determined

ii. relevant safeguarding authorities; To be determined

iv. dismissed her concerns by stating that there was nothing wrong with her or words to that effect; To be determined

~~f. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:~~

~~i. 1.a;~~ Withdrawn under Rule 17(2)(g)

~~ii. 1.b;~~ Withdrawn under Rule 17(2)(g)

iii. 1.e.iii. To be determined

2. On 30 January 2020, you consulted with Patient A and you:

a. communicated inappropriately and/or unprofessionally with Patient A in that you:

~~i. failed to ask how she was feeling; To be determined~~ Withdrawn under Rule 17(6)

ii. failed to address her concerns; To be determined

iii. became angry and questioned her with a raised voice; To be determined

iv. made inappropriate comments, including words to the effect of:

i. 'two failed marriages, one failed engagement and another marriage in trouble'; To be determined

ii. 'there's nothing I can do your life is one disaster to another and full of ill-timed decisions'; To be determined

iii. 'what do you want me to do'; To be determined

~~b. failed to provide her with contact details for crisis support;~~ Withdrawn under Rule 17(2)(g)

~~c. failed to arrange for an alternative member of the mental health team to take over her care following the consultation;~~ Withdrawn under Rule 17(2)(g)

~~d. failed to arrange a review or mental health follow up;~~ Withdrawn under Rule 17(2)(g)

~~e. failed to arrange any form of reassuring communication with Patient A later that day;~~ Withdrawn under Rule 17(2)(g)

~~f. inappropriately discharged Patient A from your care; To be determined~~ Withdrawn under Rule 17(6)

g. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:

~~i. 2.a.i; To be determined~~ Withdrawn under Rule 17(6)

ii. 2.a.ii; To be determined

iii. 2.b; To be determined

iv. 2.c; To be determined

~~v. 2.d;~~ Withdrawn under Rule 17(2)(g)

~~vi. 2.e.~~ Withdrawn under Rule 17(2)(g)

Patient B

3. On 30 April 2019 you consulted with Patient B and you:

~~a. failed to obtain information regarding Patient B's:~~

~~i. previous medical history; To be determined~~ Withdrawn under Rule 17(6)

~~ii. treatment;~~ Withdrawn under Rule 17(2)(g)

~~iii. prescribed medication;~~ Withdrawn under Rule 17(2)(g)

b. failed to discuss Patient B's ~~presenting complaint of~~ distress caused by; Amended under Rule 17(6):

i. rape; To be determined

ii. blackmail; To be determined

c. failed to appropriately advise Patient B on how to stop taking Citalopram, in that you did not:

i. provide guidance on potential withdrawal symptoms; To be determined

ii. recommend a more gradual withdrawal tapered over a few weeks; To be determined

d. failed to obtain Patient B's informed consent to discontinue Citalopram; To be determined

~~e. failed to respond appropriately when you learnt that Patient B's estranged husband was one of your patients, in that you did not:~~

~~i. adequately assess any potential conflict of interest;~~ Withdrawn under Rule 17(2)(g)

~~ii. adequately consider your ability to remain objective;~~ Withdrawn under Rule 17(2)(g)

~~iii. adequately consider your ability to provide the most appropriate specialist advice to Patient B;~~ Withdrawn under Rule 17(2)(g)

f. made inappropriate comments, including words to the effect of:

i. she looked so good for her age; To be determined

ii. you knew from looking at her that she wasn't depressed; To be determined

iii. it was more her fault that the marriage has not worked out and that if she had not been so westernised, she would be with her husband now; To be determined

iv. her XXX ex-husband was shocked when he discovered she was not a virgin and he felt he had to protect her; To be determined

v. you made comparisons with her sister who was married at sixteen to a cousin; To be determined

vi. she is a mother and a housewife and that's where her priorities are; To be determined

g. in the alternative to your conduct as described in the following paragraphs you failed to record your actions at paragraphs:

i. ~~3.a;~~ Withdrawn under Rule 17(2)(g)

ii. 3.b; To be determined

iii. 3.c; To be determined

iv. 3.d; To be determined

~~v. 3.e.~~ Withdrawn under Rule 17(2)(g)

4. On 15 May 2019 you consulted with Patient B and you failed to:

~~a. obtain information regarding Patient B's:~~

~~i. previous medical history; To be determined~~

~~ii. treatment; To be determined~~

~~iii. prescribed medication; To be determined~~

b. discuss Patient B's ~~presenting complaint of~~ distress caused by; Amended under Rule 17(6):

i. rape; To be determined

ii. blackmail; To be determined

c. ~~document the presence or absence of ongoing medical or physical issues;~~ Withdrawn under Rule 17(2)(g)

d. ~~record your actions in the alternative to the conduct as described in the following paragraphs you failed~~ in the alternative to the conduct as described in the following paragraphs you failed to record your actions at paragraphs; Amended under Rule 17(6):

i. 4.a; To be determined

ii. 4.b. To be determined

Patient C

5. On 11 February 2020, you consulted with Patient C and you:

a. ~~failed to assess his mental capacity by asking questions to ascertain that he was able to~~:

i. ~~understand the information in sufficient detail;~~ Withdrawn under Rule 17(6)

ii. ~~retain information sufficiently;~~ Withdrawn under Rule 17(6)

iii. ~~consider information sufficiently;~~ Withdrawn under Rule 17(6)

iv. ~~reach a balanced decision;~~ Withdrawn under Rule 17(6)

v. ~~communicate his decision;~~ Withdrawn under Rule 17(6)

~~b. failed to complete a risk assessment regarding:~~

i. ~~suicide;~~ Withdrawn under Rule 17(2)(g)

ii. ~~self-harm;~~ Withdrawn under Rule 17(2)(g)

iii. ~~harm to others;~~ Withdrawn under Rule 17(2)(g)

iv. ~~self-neglect;~~ Withdrawn under Rule 17(2)(g)

~~c. failed to obtain informed consent to reduce the prescription of Olanzapine;~~ Withdrawn under Rule 17(2)(g)

~~d. prematurely told him to reduce and stop Olanzapine;~~ Withdrawn under Rule 17(2)(g)

~~e. made further changes to his prescribed medicine without waiting for three to four months of stability following the Olanzapine withdrawal;~~ Withdrawn under Rule 17(6)

~~f. inappropriately told him to take his medication as required, which included:~~

i. ~~Pregabalin;~~ Withdrawn under Rule 17(6)

ii. ~~Mirtazapine;~~ Withdrawn under Rule 17(6)

iii. ~~Venlafaxine;~~ Withdrawn under Rule 17(6)

~~g. failed to give complete advice on how to reduce his medication, in that you did not advise:~~

i. ~~gradual withdrawal of Pregabalin over a period of at least one week;~~ Withdrawn under Rule 17(6)

~~ii. gradual withdrawal of Mirtazapine over several weeks;~~ Withdrawn under Rule 17(6)

~~iii. gradual withdrawal of Venlafaxine over several weeks;~~ Withdrawn under Rule 17(6)

~~h. failed to ensure that the referral to occupational therapy was achieved;~~ Withdrawn under Rule 17(6)

~~i. failed to write a supporting letter for submission towards Personal Independence Payment;~~ Withdrawn under Rule 17(6)

j. communicated inappropriately and/or unprofessionally with Patient C in that you:

i. called him 'brother'; To be determined

ii. used a tone that was:

i. accusatory; To be determined

ii. aggressive; To be determined

iii. mocking; To be determined

iv. judging; To be determined

v. belittling; To be determined

iii. made inappropriate comments, including:

i. 'get a grip' or words to that effect; To be determined

ii. that there were 'big changes to come', or words to that effect, with no context; To be determined

iii. that his medicine would 'kill him', or words to that effect, with no context; To be determined

iv. that he should 'pull himself together', or words to that effect; To be determined

iv. introduced religion into the consultation by using Arabic terminology; To be determined

v. introduced moral values into the consultation by discussing marriage; To be determined

vi. undermined and criticized the treatment provided by his previous Consultant Psychiatrist; To be determined

~~k. failed to arrange an additional psychiatric outpatient review;~~ Withdrawn under Rule 17(6)

~~l. failed to ensure he understood the information by providing:~~

~~i. a copy of the clinical letter;~~ Withdrawn under Rule 17(6)

~~ii. less detailed written information;~~ Withdrawn under Rule 17(6)

~~m. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:~~

~~i. 5.a;~~ Withdrawn under Rule 17(6)

~~ii. 5.b;~~ Withdrawn under Rule 17(2)(g)

~~iii. 5.c;~~ Withdrawn under Rule 17(6)

~~iv. 5.g;~~ Withdrawn under Rule 17(6)

~~v. 5.h;~~ Withdrawn under Rule 17(6)

~~vi. 5.k;~~ Withdrawn under Rule 17(6)

~~vii. 5.l.~~ Withdrawn under Rule 17(6)

~~6. On 12 February 2020, when Patient C requested a further discussion, you failed to respond to the request.~~ Withdrawn under Rule 17(6)

~~7. On 21 February 2020, when Patient C requested to view the typed clinical letter dated 12 February 2020, you failed to respond to the request.~~ Withdrawn under Rule 17(6)

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

## Witness Evidence

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

- Patient A, by video link;
- Patient B, in person; and
- Patient C, by video link.

14. Dr Ahmed provided his own witness statement, dated 13 July 2022. He also gave oral evidence at the hearing. In addition, the Tribunal received oral and witness evidence from the following witnesses on Dr Ahmed's behalf:

- Miss D, SHHC Receptionist, by video link; and
- Dr E, former SHHC Associate Specialist Psychiatrist, in person.

## Expert Witness Evidence

15. The Tribunal received evidence from an expert witness, Dr F, Consultant Old Age Psychiatrist, on behalf of the GMC, who provided a series of reports dated 20 August 2020, 4 November 2020, 19 April 2021, 18 June 2021 and 29 March 2022 and he also gave oral evidence.

## Documentary Evidence

16. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to the relevant medical records of Patient A, Patient B and Patient C and documents in relation to their complaints.

## The Tribunal's Approach

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

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

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

## Patient A

Paragraph 1

19. In respect of paragraph 1(c), the Tribunal looked at relevant documents supplied to it. This included the witness statements of Patient A and Dr Ahmed and Patient A's medical records. The Tribunal considered that there were two elements to the charge; the first was whether Dr Ahmed said the words attributed to him by Patient A.

20. Dr Ahmed agreed in evidence that by the end of the consultation, he had formed the opinion that there was nothing clinically wrong with Patient A from a psychiatric perspective. He confirmed in oral evidence his consultation record made the same day, and his statement that he could elicit no sign of clinical depression. The consultation record stated that this was communicated to Patient A. The Tribunal therefore accepted that he probably did say words to this effect to Patient A.

21. In order to find the charge proved, however, the GMC had to prove on the balance of probabilities a second element, namely that Dr Ahmed dismissed Patient A's concerns **by** (*our emphasis*) stating 'there was nothing wrong with her'.

22. Dr Ahmed told the Tribunal that the service offered by Small Heath Health Centre (SHHC) was provided by a multidisciplinary team. He also explained that the primary criterion for accessing the service was that a patient required medication. If medication was not required, the patient did not fit this criterion then they would be discharged back to their GP. If the patient needed psychology input, they would be referred via their GP. Dr Ahmed stated that the decision to discharge patients was made by the MDT. Dr Ahmed explained that his role was therefore quite specific. This accords with Dr E's explanation of the operation of SHHC and the record of the consultation made by the community psychiatric nurse (CPN) who assessed Patient A on 7 April 2018, shortly before her consultation with Dr Ahmed.

23. The CPN requested that Dr Ahmed see Patient A as a matter of urgency to assess whether medication was required and to determine whether she had a mental disorder requiring psychiatric intervention and this is recorded in the CPN note. The CPN also recorded that Patient A should be referred to psychology. The CPN asked, and Dr Ahmed agreed, to see Patient A as a matter of urgency. The Tribunal considered that Dr Ahmed would not have agreed to an urgent appointment unless he was genuinely concerned to ascertain whether Patient A needed psychiatric intervention. He could only make such an assessment through an interview with her. Dr Ahmed and Patient A agreed that she was allocated an hour's appointment.

24. Both Dr Ahmed and Patient A agreed that Patient A had wanted a private discussion with a single doctor as she felt uncomfortable discussing her concerns in the presence of two doctors. Both agreed that Dr Ahmed asked Dr S, who was present in a learning capacity, to leave the consultation and that he did so. The Tribunal noted that both Dr Ahmed and Patient A agreed that the consultation had lasted for about an hour. Dr Ahmed's record of the

consultation, made later the same day, was detailed and Patient A confirmed the accuracy of factual details regarding her situation stated in those notes. The Tribunal was of the view that these could not have been elicited without Patient A being given the opportunity to speak and accorded with what Dr Ahmed said about his usual practice which was to ask open questions of a patient and allow them to talk about their concerns.

25. The Tribunal noted that Dr Ahmed recorded that he had provided Patient A with psychoeducation and Patient A agreed that he had provided some advice. Dr Ahmed's evidence was that Patient A agreed to follow his advice. It also noted that Dr Ahmed recorded that he gave Patient A information about services which her GP could provide.

26. Dr Ahmed's conclusion, set out in his consultation note, was that the primary criterion for accessing the service, namely that medication was required, was not met and Patient A was discharged. The Tribunal notes that this was Patient A's first referral to the service and that there was no evidence that Patient A was aware of the admission criteria. Dr Ahmed explained that he would expect the CPN to explain this prior to his consultation. The Tribunal concluded that Patient A's expectations as to what Dr Ahmed could provide may not have matched what Dr Ahmed was able to provide and Patient A was dissatisfied that she was discharged. The Tribunal noted that despite the CPN's referral to psychology, Patient A did not engage with those services.

27. The Tribunal noted that Patient A complained to her GP within a month of seeing Dr Ahmed. She complained about Dr Ahmed's dismissive and negative attitude. The GP did not record any specific complaint; however, as the referral to psychology demonstrated, intervention was identified and offered.

28. Using the ordinary meaning of the words contained in paragraph 1(c), the charge would only be proved if the Tribunal concluded that Dr Ahmed dismissed Patient A's concerns **by** (our emphasis) saying to her, "there's nothing wrong with you." For the reasons set out above, the Tribunal concluded that Dr Ahmed did react and respond to Patient A's concerns, asking the second doctor to leave the consultation as requested, providing an hour for her to speak, and providing advice.

29. The Tribunal concluded that Patient A was unhappy with the outcome of her consultation, and this coloured her perception of what actually occurred, particularly given her long wait before being able to access SHHC. The Tribunal concluded that as a result of being discharged, Patient A formed a negative view that Dr Ahmed was dismissive, although there

was insufficient evidence for the Tribunal to conclude that, on the balance of probabilities, he was. Accordingly, the Tribunal found paragraph 1(c) of the Allegation not proved.

30. The Tribunal then considered paragraph 1(e)(i) which alleges that Dr Ahmed communicated inappropriately and/or unprofessionally by saying to Patient A that she would encounter further abuse in the future, or words to that effect. The Tribunal was of the view that this statement would be deeply offensive, could have no therapeutic value, and could cause harm if said.

31. Dr Ahmed explained that the purpose of the consultation with him was not to explore Patient A's history of past trauma and abuse, but to assess her current situation in relation to medication and psychiatric illness. This accords with what Dr Ahmed recorded in his notes made shortly afterwards. The Tribunal recalled that Dr Ahmed stated in his evidence that he advised Patient A about interpersonal relationships and that, additionally, his notes state that he advised Patient A to "adjust herself and tactfully deal with her problems". Given the main focus of the consultation, as borne out by the contemporaneous notes of both the CPN and Dr Ahmed, was what was going on currently, the Tribunal were of the view that the comment alleged did not fit with that scenario. The Tribunal further noted that the complaint about Dr Ahmed as made by Patient A in 2018 did not include reference to the words alleged which, given their nature, would be extremely surprising. The Tribunal formed the view that Patient A may have misinterpreted the advice which Dr Ahmed sought to give her as described in his notes.

32. The Tribunal also considered paragraph 1(e)(ii) which alleges that Dr Ahmed told Patient A that rape is subjective and that in Islam a man cannot rape his wife. The Tribunal was of the view that this statement would also be deeply offensive and very concerning if said. It would also be a misstatement of the criminal law.

33. The Tribunal noted that during his oral evidence, Dr Ahmed stated that Patient A did not mention to him the historic rape which she had described to the CPN. It noted that in the CPN notes, the reason for referral was not distress arising from rape. Dr Ahmed's detailed notes of the consultation did not mention rape but did carefully document other forms of abuse relayed by Patient A. The Tribunal considered that it was unlikely that Dr Ahmed would record one but not the other, given the detail of his notes.

34. The Tribunal noted that Dr Ahmed was described by Dr E, his former colleague, and Ms D, a member of the administrative staff, as being an excellent doctor. Dr E explained that

junior doctors would attend Dr Ahmed's consultations to learn how to manage patients well. Dr E said that Dr Ahmed in his experience was always kind and patient. By contrast the Tribunal noted that Patient A accepted that she had difficulties with interpersonal relationships generally and had concerns that she had a personality disorder. The Tribunal accepted Dr Ahmed's evidence that her primary concern, which she had also expressed to the CPN, was in managing current relationships.

35. The Tribunal also noted inconsistency within Patient A's initial complaint. Originally, Patient A asserted that this comment was made in the second consultation, however, she subsequently attributed it to the first. The Tribunal further agreed that Patient A's GP had not mentioned distress arising from rape as the reason for the referral to SHHC. In the Tribunal's opinion, had rape been part of the reason for Patient A's initial referral, it was unlikely it would not have been mentioned. The psychologist who saw Patient A after the consultation with Dr Ahmed, also made no record to indicate that rape was mentioned to him either. A CPN who saw Patient A, on 4 March 2018, similarly made no record of rape being spoken of. Those records lent support to Dr Ahmed's account that Patient A had not mentioned rape to him. It followed that in the absence of Patient A referring to rape in the consultation with Dr Ahmed, Dr Ahmed would not have made the comment attributed to him by Patient A. Her primary difficulty at that time was relationships at work.

36. Furthermore, Dr Ahmed gave evidence of his long period of practice in the UK and that he was wholly familiar with what amounted to rape in law. The Tribunal noted his long and unblemished medical career. They could find no evidence of any motivation on the part of Dr Ahmed to make the comments attributed to him. By contrast, the Tribunal had already concluded that Patient A was dissatisfied with Dr Ahmed's decision to discharge her. The Tribunal considered that it was implausible that Dr Ahmed would have made either statement.

37. Accordingly, the Tribunal found paragraphs 1(e)(i) and (ii) of the Allegation not proved.

38. The Tribunal concluded, after considering the charges relating to the second consultation, that it accepted the evidence of Dr E and Dr Ahmed as to what occurred in that consultation. The Tribunal's decisions in respect of paragraphs 1(c.) and 1(e) were re-enforced by those conclusions.

39. With regard to paragraph 1(e)(i-iii), having concluded that it was unlikely that rape was discussed during Patient A's consultations, it followed that there could be no failure on the part of Dr Ahmed in not introducing the topic of reporting it to the police or relevant

safeguarding authorities. The Tribunal further questioned why this would, in any event, be the responsibility of Dr Ahmed whose consultation was to address the specific issues of medication and psychiatric disorder, rather than Patient A's GP or the CPN to whom the historic rape was clearly mentioned. Dr Ahmed was part of a team. The Tribunal took the view that the CPN had undertaken a risk assessment, which she documented, and the CPN had received no information that Patient A faced any current risk. Patient A agreed with that risk assessment. The Tribunal concluded, therefore, that even if rape had been mentioned, Dr Ahmed was not under any duty to advise Patient A to report this or to record having done so.

40. The Tribunal considered paragraph 1(e)(iv) and noted that it was, in effect, a repetition of paragraph 1(c), which it had found not proved. For the same reasons, the Tribunal concluded that paragraph 1(e)(iv) was not proved.

41. The Tribunal considered paragraph 1(f)(iii) and found it also fails as it was dependent on 1(e)(iii) which the Tribunal found not proved.

42. With regard to paragraph 2(a)(ii), the Tribunal placed weight on the independent witness statement and account of Dr E which was broadly consistent with that of Dr Ahmed. The Tribunal did not accept Mr Rankin's submission that Dr E was not fully independent simply because he was a doctor working at SHHC. The Tribunal noted that both Dr E and Dr Ahmed remembered that Patient A had a shopping bag with her, which they found a small but telling detail. The Tribunal noted that Patient A gave no reason as to why Dr Ahmed would have terminated the meeting abruptly. By contrast, Dr E and Dr Ahmed stated that it ended due to inappropriate behaviour by Patient A whose anger required Dr Ahmed to write things down on paper as he was unable to communicate effectively with her verbally. The Tribunal concluded that it could give greater weight to the evidence of Dr Ahmed due to its findings thus far, Dr E's recollection was independent and accorded with that of Dr Ahmed and both were supported by the detailed medical notes made by Dr Ahmed the same day. It concluded that on the balance of probability that it was unlikely that Dr Ahmed communicated inappropriately and/or unprofessionally with Patient A in regard to addressing her concerns. It found paragraph 2(a)(ii) not proved.

43. With regard to paragraph 2(a)(iii), the Tribunal noted that Dr E, who was present throughout, confirmed in his evidence that Dr Ahmed did not become angry or raise his voice and remained professional throughout the consultation. It noted that Dr E went further and stated that he had never heard Dr Ahmed raise his voice during any consultation. The Tribunal was of the view that there was no explanation even from Patient A as to why Dr Ahmed, who had so far, an unblemished record, would behave in the way alleged. It reiterated that Dr Ahmed's and Dr E's accounts were similar and that they were corroborated by contemporaneous medical records. As such it found paragraph 2(a)(iii) not proved.

44. The Tribunal considered paragraphs 2(a)(iv) (i-iii) and noted that in the oral evidence of Dr Ahmed he said that he was reading from the psychology notes of Patient A when the difficulties arose. Dr E, in his evidence, described that Dr Ahmed was repeating Patient A's own words back to her as a reflective therapeutic technique. The Tribunal asked Patient A about her response to the comments which she alleged Dr Ahmed had made. She described that she was upset which manifested as:

*"shaking, visibly upset and speaking really fast but not angry"*

and added she could not remember speaking over Dr Ahmed. Both doctors described how Patient A became fixated on what was reflected back to her, kept talking and would not listen which is why Dr Ahmed wrote what he was trying to say on a piece of paper, something Patient A also agreed had been done. The Tribunal considered that had Dr Ahmed been able to communicate verbally with Patient A effectively, he would not have needed to write anything.

45. The Tribunal also considered Patient A's behaviour in relation to a phone call with a male nurse (Nurse M) on 27 January 2019 regarding a nursing visit. Patient A disagreed with the nurse's understanding about a home visit, told Nurse M she did not like his tone of voice and questioned why, as a man, he was working in a mental health team. The note reads that:

*"…this went on for a while and she would not let me speak."*

46. Patient A when asked had no recollection of this incident. The Tribunal noted the similarity in the reaction of Patient A to that described by Dr E and Dr Ahmed. The Tribunal noted that Patient A did not ask Dr E to intervene and provided no reason for why Dr Ahmed would act as he did or ask her to leave the consultation early. It considered Dr Ahmed's and Dr E's accounts to be reliable.

47. The Tribunal noted that after the first appointment, Patient A was displeased. It concluded that in the second appointment she was overwhelmed by her emotions resulting in her misunderstanding and misinterpreting what Dr Ahmed said and his intent and did not recognise that Dr Ahmed was reflecting back to her a summary of things which she had said as part of the process of exploring her concerns. The Tribunal further noted that Patient A was unhappy before the appointment even began as she was going to a doctor she did not want to see.

48. The Tribunal determined that given its findings, it could not conclude that Dr Ahmed's question, 'what do you want me to do' or words to that effect, was inappropriate or unprofessional nor that he failed to address Patient A's concerns. In fact, the Tribunal concluded that he had tried to do so but was unable to. For the reasons outlined above, the Tribunal concluded that it was not established that Dr Ahmed communicated with Patient A in a way which was inappropriate or unprofessional. Paragraphs 2(a)(i-iv) were, accordingly not proved.

49. Paragraph 2(g)(ii), (iii) and (iv) relates to an alleged failure to record Patient A's concerns, failure to record providing contact details for crisis support and failure to record that he had not arranged an alternative member of the mental health team to take over Patient A's care after her consultation, respectively. The Tribunal was of the view that Dr Ahmed made a detailed record of the salient features of the consultation on the day it occurred. Given the findings above in relation to paragraph 2(c) above, the Tribunal concluded that it was not proved that Dr Ahmed had dismissed Patient A's concerns and that it followed logically that the charge at paragraph 2(g)(ii) was not proved.

50. As previously set out, the Tribunal found the accounts of Dr Ahmed and Dr E were broadly consistent with each other. Dr Ahmed wrote a follow up letter to Patient A's GP containing appropriate crisis advice. Dr Ahmed described how this advice and contact details were displayed prominently throughout SHHC. The Tribunal heard no evidence that Dr Ahmed was under a duty to provide Patient A with crisis support advice over and above that described. Accordingly, it found paragraph 2(g)(iii) not proved.

51. In relation to paragraph 2(g)(iv), as Patient A did not meet the criteria for secondary care, the Tribunal also concluded that Dr Ahmed was not under any duty to arrange for Patient A to see an alternative member of the team. This was reinforced by the findings of the Tribunal as to why the consultation with Dr Ahmed ended. Patient A was asked to leave the consultation due to her behaviour. The GMC had provided no evidence as to why Dr Ahmed was under a duty in such circumstances to arrange an alternative doctor, nor why he was under a duty to record that he had not done so. It was clear from Dr Ahmed's notes what had taken place in any event. The Tribunal therefore found that this paragraph was not proved.

## Patient B

Paragraph 3

52. The Tribunal considered paragraphs 3(b)(i) and (ii) of the Allegation. Dr Ahmed and Patient B agreed that Patient B's child was in the room during the consultation. In her evidence, Patient B said that she subtly disclosed to Dr Ahmed that she had been raped to prevent her child becoming aware of that. She did not state that she mentioned having been blackmailed. Dr Ahmed disputed Patient B's allegation and said that rape and blackmail were not mentioned at all.

53. The Tribunal considered why Dr Ahmed would have chosen not to record rape and blackmail had they been mentioned, particularly as Patient B acknowledged in her evidence that he had recorded, in detail, most other things that were discussed during the consultation. The Tribunal noted that in her witness statement Patient B said that she had "tried to discuss the rape" but did not state that she had actually done so.

54. The Tribunal noted that Patient B's witness statement was written some years after the consultation and that Patient B acknowledged she had some difficulties with her memory

and disclosed this in her first interview with the GMC. It was reminded of Patient B's admission, in her original complaint where she stated:

> *"I have written things in a mixed up way, I apologise."*

55. Further, Patient B stated that she had no memory whatsoever of being assessed by a CPN, a meeting which was confirmed to have taken place by the medical records before Patient B met Dr Ahmed and in which rape and blackmail are recorded as having been discussed. It also saw from the notes of the telephone call with the GMC that Patient B had not been clear if she had reported the incident to the police. These various factors undermined the reliability of Patient B's account.

56. Moreover, during her oral witness evidence to this Tribunal, Patient B suggested that a typographical error had occurred in her witness statement where she said:

> *"I am aware that Arabs think of themselves as better than Muslims or Asians so Dr Ahmed was intimating that I was lucky to have had a man like that."*

57. The Tribunal took the view that if the error were corrected as Patient B suggested, her sentence would not make sense and would not accord with the context within which the sentence appeared. This raised further concerns about the reliability of Patient B's account as it demonstrated potential hostility towards Dr Ahmed based upon his nationality.

58. The Tribunal heard evidence from Miss D, an administrator at the SHHC, who spoke to Patient B before the consultation with Dr Ahmed began on 30 April 2019. Patient B recounted that Miss D had made 'disparaging' remarks about Dr Ahmed, including that:

> *"he's a complete bastard and a male chauvinist."*

59. Miss D wholly refuted this assertion. The Tribunal formed the view that if Miss D held the views Patient B claimed she expressed to her, she would not have appeared as a witness on behalf of Dr Ahmed or given him the glowing character reference which she did. The Tribunal noted that Miss D had no reason to lie about this event. Accordingly, the Tribunal accepted the evidence of Miss D.

60. The Tribunal also noted that Patient B described Dr Ahmed's conduct at the beginning of the consultation as open and friendly before describing an inexplicable and sudden change to irritability. This alteration was wholly unexplained by Patient B's account of events and undermined her account of them.

61. The Tribunal was further of the view that because Patient B believed that Dr Ahmed was ogling her during the consultation and that he was a chauvinist, she may have been reticent to discuss very sensitive issues of rape and blackmail with him. Due to its concerns about the reliability of this aspect of Patient B's account, the Tribunal concluded that paragraphs 3(b)(i-ii) were not proved.

62. With regard to paragraph 3(c)(i-ii), which alleged that Dr Ahmed had failed to give Patient B appropriate advice relating to her medication, the Tribunal had heard evidence from Dr F and Dr Ahmed that Patient B was receiving the lowest dosage of Citalopram (20mg) and that this was documented in her GP notes. The Tribunal noted that for paragraph 3(c)(ii) to be proved, the GMC had to prove that Dr Ahmed was under a duty to recommend gradual withdrawal of Citalopram. The NICE Guidelines, to which Dr F referred, stated that given the low dose and short time for which Patient B had been prescribed the drug, either complete cessation or tapered reduction were appropriate. In order for paragraph 3(c)(i) to be proved, the Tribunal had to be satisfied that Dr Ahmed was under a duty to advise Patient B of potential side effects of withdrawal. The Tribunal concluded that this was required in order that Patient B could make an informed choice as to how to withdraw from the medication.

63. Patient B accepted that Citalopram was discussed. The Tribunal noted that Dr Ahmed's contemporaneous note of the consultation stated that he saw no role for medication in her care. Patient B had been on Citalopram for two months with little response and there was an entry in her GP records to a similar effect. Although Dr Ahmed had recorded in his notes that there was a discussion as to tapering, he had made no note of any discussion about specific withdrawal symptoms. It also noted that in a letter to the GP, Dr Ahmed did not mention specific withdrawal symptoms. In his evidence to the Tribunal, the only withdrawal symptom which Dr Ahmed mentioned was "a surge of anxiety". The Tribunal was of the opinion that Dr Ahmed concluded that due to the low dosage and short period of use that Patient B was very unlikely to experience withdrawal symptoms and that it was, therefore, unlikely that he informed her of them. Taken together with the lack of recording and Dr Ahmed's admission in his witness statement and to the Tribunal that in this regard his record keeping was subpar, the Tribunal found paragraph 3(c)(i) proved but found 3(c)(ii) not proved.

64. In respect of paragraph 3(d), the Tribunal noted that Dr F was of the opinion that Dr Ahmed failed to obtain informed consent from Patient B to discontinue Citalopram. However, the Tribunal could find no evidence to support the contention that there was a duty upon any doctor to obtain consent, informed or otherwise, to withdraw medication which the doctor deemed medically unnecessary. Dr Ahmed had decided that Patient B did not need Citalopram. The Tribunal therefore concluded that paragraph 3(d) was not proved.

65. In respect of paragraph 3(f) (i-ii, vi), the Tribunal compared Dr Ahmed's careful contemporaneous notes to the Allegation. The Tribunal considered the reliability of Patient B's evidence in relation to this appointment, which was affected, but not determined by, Miss D's evidence about the details of their conversation. It considered that the reliability of Patient B's account of these alleged statements was adversely affected by her own comments about the reliability of her memory (to the CPN, her GP and in her evidence to the Tribunal). The Tribunal was also concerned that Patient B claimed to remember specific words attributed to Dr Ahmed in the consultation but had no memory of other parts of the appointment, or her recent assessment appointment with a CPN where a lengthy history was

taken. The Tribunal noted that Dr Ahmed had given a consistent account of the first consultation with Patient B throughout his written and oral evidence.

66. The Tribunal noted that Dr Ahmed had commented upon Patient B's presentation, however, this was at the end of his assessment rather than at the beginning. It was understandable that he would comment upon her appearance. For example, whether she appeared tidy as opposed to dishevelled may be indicative of the presence or absence of self care and thus her mental state. Dr Ahmed's notes state that he communicated his impression of her presentation to Patient B and recorded that she was:

*"…pleased to know she does not have a mental illness."*

67. Finally, the Tribunal noted that while the comments complained of by Patient B were set out in her original complaint dated 16 January 2020, they were not repeated in her statement. The Tribunal concluded that Patient B's account of what was said was not reliable, and that she was muddled as to her recollection of what occurred when.

68. The Tribunal concluded that while it accepted that there was a discussion about each of the topics listed in Paragraph 3(f) (i), (ii) and (vi), Dr Ahmed did not say the specific words attributed to him by Patient B and that, in any event, there was insufficient evidence that anything said was inappropriate or unprofessional. Accordingly, Paragraph 3(f) (i), (ii) and (vi) are not proved.

69. In respect of paragraph 3(f) (iii), (iv) and (v), the Tribunal was troubled that Patient B ascribed motives to Dr Ahmed, particularly of sexual interest in her, for which the Tribunal could see no support and that she appeared to interpret most of Dr Ahmed's actions as demonstrating hostility or negativity towards her. By way of example, Patient B intimated that Dr Ahmed's request for her phone number indicated sexual interest in her. There is no evidence that Dr Ahmed made any attempt to contact Patient B. Similarly, she expressed anger that Dr Ahmed made her 'disclose things,' but this would not be inappropriate in his role as a consultant psychiatrist. Further the Tribunal accepted Mr Bennett's submissions that Patient B exaggerated the withdrawal symptoms which she asserted followed the withdrawal of Citalopram and noted that she had visited her GP twice after seeing Dr Ahmed that she made no mention of any withdrawal issues in either consultation or to Dr Ahmed at her next consultation with him some two weeks later.

70. The Tribunal specifically considered the comments at 3(f) (i and vi) and was of the view that Dr Ahmed may have used phrases to these effect. However, due to the hostility Patient B harboured towards Dr Ahmed, who reminded her of her ex-husband, and who she later suggested was racist and sexist, Patient B may have misunderstood and/or misrepresented Dr Ahmed's actual words, intent, or the context. The Tribunal compared Dr Ahmed's contemporaneous notes and preferred his account to that of Patient B which had notable inconsistencies, evidenced hostility towards Dr Ahmed and contained emotive language. For the reasons cited previously regarding Patient B's reliability generally and for

the specific reasons cited, the Tribunal therefore found paragraph 3(f) (i-ii, vi) of the Allegation not proved.

71. The Tribunal considered paragraph 3(g)(ii) and noted that as it had found paragraph 3(b) not proved in that it was specific to Dr Ahmed's failure to discuss Patient B's distress caused by rape and blackmail, it would naturally follow that paragraph 3(g)(ii) would be not proved.

72. With regard to paragraph 3(g)(iii), the Tribunal reviewed relevant medical notes and records which did not mention withdrawal symptoms and concluded that as it found that Dr Ahmed had not provided guidance on specific withdrawal symptoms, he would not have recorded details of doing so. This is an alternative charge to the Allegation in paragraph 3(c) which the Tribunal found proved. Accordingly, this charge is not proved.

73. In respect of 3(g)(iv), the Tribunal reminded itself that as there was no guidance specifically stating that Dr Ahmed had a duty to gain informed consent before stopping Patient B's unnecessary medication and so found that paragraph of the Allegation not proved, it was axiomatic that there was no duty upon Dr Ahmed to record actions he did not have a duty to perform. The Tribunal found paragraph 3(g)(iv) not proved.

Paragraph 4

74. The Tribunal considered paragraph 4(b)(i-ii) of the Allegation which related to the second consultation with Patient B. The Tribunal reminded itself that Dr Ahmed categorically stated both at the hearing and in his witness statement that rape and blackmail were not raised during either appointment with Patient B. Moreover, Patient B did not mention that these topics were discussed in the second appointment in her statement or her evidence. It, therefore found paragraphs 4(b)(i-ii) of the Allegation not proved.

75. The Tribunal then went on to consider paragraph 4(d)(i-ii). With respect to d(i), the Tribunal noted that paragraph 4(a) of the Allegation was withdrawn in its entirety so decided that there was no duty for Dr Ahmed to record his actions and furthermore it noted that as this was recorded by the CPN during assessment Dr Ahmed also did not have a duty to record it further. The Tribunal found paragraph 4d(i) not proved.

76. With respect to paragraph 4(d) (ii), the Tribunal concluded that as there was no evidence that either the rape or the blackmail was discussed in the second consultation, Dr Ahmed did not have a duty to record something that was not said. Accordingly, the Tribunal found paragraph 4(d)(i-ii) of the Allegation not proved.

## Patient C

Paragraph 5

77. The Tribunal considered paragraph 5(j)(i-ii) and had regard to the overall evidence of Dr Ahmed, the relevant witness statements and oral evidence during the hearing. It noted that Dr E initially saw Patient C alone and then saw Patient C together with Dr Ahmed. In relation to the joint consultation, the oral evidence of each doctor was consistent with their witness statement and each doctor was consistent with the other in their description of what occurred.

78. The Tribunal considered that Patient C's account contained a series of issues which raised concerns about the reliability of his account and his credibility generally. The Tribunal noted that in his witness statement, Patient C said that he had expected to see Dr E on 11 February 2020 not Dr Ahmed. Despite this, he recorded in his statement that on arrival in the waiting room he could see that Dr Ahmed's patients were 'fearful of him'. There was no explanation as to how Patient C could identify Dr Ahmed's patients, why they were of any interest to him given he was seeing Dr E or why, even assuming his identification was correct, any of Dr Ahmed's patients would appear 'fearful'. Further, Patient C relayed that Dr E dealt with the request for a urine sample in complete silence on the doctor's part. By contrast Dr E's account of how, where, and why he asked for the urine sample was compelling as was Dr E's recollection that after the urine test, Patient C volunteered that he was not taking Olanzapine, the prescribed medication which the urine screen would later confirm Patient C was not taking.

79. The Tribunal noted that if Patient C's account was accurate, two doctors acting initially independently of each other, had both, without explanation, behaved inappropriately towards Patient C and then must both have conspired together to provide accounts consistent with each other, putting in danger their good standing as doctors and with their regulator. The Tribunal found this implausible. The Tribunal also found Patient C's assertion that Dr Ahmed initially thought that Patient C's mother was the patient rather than Patient C implausible. Both doctors said they had discussed Patient C before his arrival at SHHC that day. The Tribunal can see no reason why Dr E would not have intervened immediately to correct Dr Ahmed had Dr Ahmed misidentified Patient C's mother as the patient, particularly given Patient C's other assertion, namely that in front of him and Dr E, Dr Ahmed had flirted with his elderly mother.

80. By contrast, the Tribunal considered the entries in the medical records which showed that Patient C had motive to complain, namely fear that he would lose additional state benefits obtained through various diagnosed medical conditions, and access to medications, some of which the urine test would subsequently demonstrate Patient C was not taking. The Tribunal took account of the results of the urine test, which demonstrated his lack of compliance with a number of prescribed medications. Further the urine text confirmed the concerns expressed by Dr H in his notes of consultations with Patient C.

81. Although Dr E had made no notes of his consultation with Patient C, the Tribunal accepted his explanation that this was because of his decision to seek the opinion of his responsible clinician, Dr Ahmed and his expectation, borne out by Dr Ahmed's actions, that Dr Ahmed would make notes on the Rio system. Dr E confirmed that Dr Ahmed's notes were

accurate and he had accessed those notes in order to present Patient C's case to the MDT three days later on 14 February. In light of Dr E agreeing the accuracy of Dr Ahmed's notes, made on the day of the consultation, the Tribunal were further supported in their view that Dr Ahmed's and Dr E's accounts of events was accurate.

82. The Tribunal considered that Patient C's credibility and reliability as a witness were significantly undermined by his assertion that during the joint consultation, Dr Ahmed undertook actions mimicking sexual activity. There was a discussion about erectile dysfunction, this being a side effect of a medication which Patient C had been prescribed but was not taking. The Tribunal finds it implausible that in the presence of three witnesses, Dr Ahmed, a senior consultant psychiatrist, would mimic sexual motions and that his colleague, Dr E, would not intervene in any way. Patient C agreed that he did not make any comment of concern about such behaviour at the time.

83. The Tribunal accepted that Dr E's oral evidence, that he believed that Patient C 'felt the game was up', was accurate. This is borne out by the events of the following day. A nurse at SHHC recorded that Patient C had telephoned complaining of being upset and confused but became aggressive and verbally abusive. The Tribunal concluded that Patient C was disgruntled and determined to complain because he feared that his discharge from SHCC would potentially adversely affect his supply of anti-psychotic drugs and his benefit payments.

84. In relation to paragraph 5(j)(i), the Tribunal found this not proved. The Tribunal does not accept that Dr Ahmed referred to Patient C as 'Brother' because it accepted the evidence of Dr Ahmed and Dr E that this was simply not said. In relation to 5(j)(ii) the Tribunal accepted the evidence of both doctors that Dr Ahmed's tone was at all times professional and appropriate. The Tribunal noted that had Dr Ahmed used a tone that was accusatory, aggressive, mocking, judging, and belittling Dr E would have to be complicit in that. While a motive had been provided for Patient C to give untruthful evidence, no reasons have been advanced as to why two doctors would mock a patient that they wanted to discharge. There would have been every reason to treat such a patient respectfully to ensure a calm exit. The Tribunal, therefore, found paragraphs 5(j)(i-ii) of the Allegation not proved.

85. In respect of paragraphs 5(j)(iii) (i-ii), the Tribunal on the balance of probability, for the reasons previously given, did not find Patient C's evidence reliable in respect of the alleged comments. Moreover, the Tribunal has had the opportunity to see and hear Dr Ahmed. It formed a positive view as to Dr Ahmed's reliability, credibility, and accuracy as a witness. It also noted that Dr E refuted the comments attributed to Dr Ahmed and the Tribunal found his evidence reliable and accurate and in accordance with the notes. Accordingly, the Tribunal found paragraph 5(j)(iii) (i-ii) not proved.

86. With regard to paragraph 5(j)(iii) (iii-iv), the Tribunal was of the view that Dr Ahmed could have said that the medication he was on would harm his health in the long term and was of the view that it would not be inappropriate for a doctor to do this. Further the Tribunal noted that it does not find Patient C credible. The Tribunal listened to Dr Ahmed's

manner of verbal communication throughout the hearing and given its findings so far concluded that the phrases as alleged were unlikely to have been used. The Tribunal found paragraph 5(j)(iii) (iii-iv) not proved.

87. The Tribunal considered paragraph 5(j)(iv-vi) and with respect to (j)(iv) noted that Dr E and Dr Ahmed had categorically said that this did not happen. Even assuming that Dr Ahmed had used Arabic terminology, this was not evidence of inappropriately introducing religion into the consultation. The Tribunal found this paragraph not proved.

88. With respect to (j)(v), the Tribunal was of the view that if Dr Ahmed introduced marriage in his consultation, it would not be particularly inappropriate and that this would not necessarily imply an introduction of moral values as the Tribunal could envisage the posing of this question in a manner that might be useful knowledge for a psychiatrist. The Tribunal also found this paragraph not proved.

89. With respect to paragraph (j)(vi), Dr Ahmed's evidence was that he was not critical of Dr H's diagnosis. He said that it sometimes requires someone outside of a therapeutic relationship to view it with "fresh eyes". In any event, Dr H's notes demonstrate that he was becoming concerned about the veracity of Patient C's presentation. The Tribunal also considered it implausible that a doctor with a thirty-five-year unblemished record and occupying significant positions of responsibility would criticise a fellow doctor to a patient and in front of another doctor. The Tribunal also found this paragraph not proved.

## The Tribunal's Overall Determination on the Facts

90. The Tribunal has determined the facts as follows:

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

### Patient A

1. On ~~6~~ 13 April 2018, you consulted with Patient A and you; Amended under Rule 17(6):

~~a. failed to obtain an adequate medical history, including:~~

~~i. any physical illness;~~ Withdrawn under Rule 17(2)(g)

~~ii. current prescription medication;~~ Withdrawn under Rule 17(2)(g)

~~iii. allergies;~~ Withdrawn under Rule 17(2)(g)

~~iv. adverse reactions to prescription medication;~~ Withdrawn under Rule 17(2)(g)

~~b. failed to risk assess her in relation to:~~

~~i. self-harm;~~ Withdrawn under Rule 17(2)(g)

~~ii. suicide;~~ Withdrawn under Rule 17(2)(g)

~~iii. neglect;~~ Withdrawn under Rule 17(2)(g)

~~iv. exploitation;~~ Withdrawn under Rule 17(2)(g)

~~v. risk of harm to others;~~ Withdrawn under Rule 17(6)

c. dismissed her concerns by stating that there was nothing wrong with her or words to that effect; Not proved

~~d. placed undue reliance on encouraging her to return to work;~~ Withdrawn under Rule 17(2)(g)

e. communicated inappropriately and/or unprofessionally with Patient A in that you:

i. told her that she would encounter future trauma, in the form of further abuse or words to that effect; Not proved

ii. told her that a 'man can't rape his wife so there was no rape' or words to that effect; Not proved

iii. failed to introduce the topic of reporting the allegations made by Patient A to:

i. the Police; Not proved

ii. relevant safeguarding authorities; Not proved

iv. dismissed her concerns by stating that there was nothing wrong with her or words to that effect; Not proved

~~f. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:~~

~~i. 1.a;~~ Withdrawn under Rule 17(2)(g)

~~ii. 1.b;~~ Withdrawn under Rule 17(2)(g)

iii. 1.e.iii. Not proved

2. On 30 January 2020, you consulted with Patient A and you:

a. communicated inappropriately and/or unprofessionally with Patient A in that you:

~~i. failed to ask how she was feeling;~~ Withdrawn under Rule 17(6)

ii. failed to address her concerns; Not proved

iii. became angry and questioned her with a raised voice; Not proved

iv. made inappropriate comments, including words to the effect of:

i. 'two failed marriages, one failed engagement and another marriage in trouble'; Not proved

ii. 'there's nothing I can do your life is one disaster to another and full of ill-timed decisions'; Not proved

iii. 'what do you want me to do'; Not proved

~~b. failed to provide her with contact details for crisis support;~~ Withdrawn under Rule 17(2)(g)

~~c. failed to arrange for an alternative member of the mental health team to take over her care following the consultation;~~ Withdrawn under Rule 17(2)(g)

~~d. failed to arrange a review or mental health follow up;~~ Withdrawn under Rule 17(2)(g)

~~e. failed to arrange any form of reassuring communication with Patient A later that day;~~ Withdrawn under Rule 17(2)(g)

~~f. inappropriately discharged Patient A from your care;~~ Withdrawn under Rule 17(6)

g. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:

~~i. 2.a.i;~~ Withdrawn under Rule 17(6)

ii. 2.a.ii; Not proved

iii. 2.b; Not proved

iv. 2.c; Not proved

~~v. 2.d;~~ Withdrawn under Rule 17(2)(g)

~~vi. 2.e.~~ Withdrawn under Rule 17(2)(g)

Patient B

3. On 30 April 2019 you consulted with Patient B and you:

~~a. failed to obtain information regarding Patient B's:~~

~~i. previous medical history;~~ Withdrawn under Rule 17(6)

~~ii. treatment;~~ Withdrawn under Rule 17(2)(g)

~~iii. prescribed medication;~~ Withdrawn under Rule 17(2)(g)

b. failed to discuss Patient B's ~~presenting complaint of~~ distress caused by; Amended under Rule 17(6):

i. rape; Not proved

ii. blackmail; Not proved

c. failed to appropriately advise Patient B on how to stop taking Citalopram, in that you did not:

i. provide guidance on potential withdrawal symptoms; Determined and found proved

ii. recommend a more gradual withdrawal tapered over a few weeks; Not proved

d. failed to obtain Patient B's informed consent to discontinue Citalopram; Not proved

~~e. failed to respond appropriately when you learnt that Patient B's estranged husband was one of your patients, in that you did not:~~

~~i. adequately assess any potential conflict of interest;~~ Withdrawn under Rule 17(2)(g)

~~ii. adequately consider your ability to remain objective;~~ Withdrawn under Rule 17(2)(g)

~~iii. adequately consider your ability to provide the most appropriate specialist advice to Patient B;~~ Withdrawn under Rule 17(2)(g)

f. made inappropriate comments, including words to the effect of:

i. she looked so good for her age; Not proved

ii. you knew from looking at her that she wasn't depressed; Not proved

iii. it was more her fault that the marriage has not worked out and that if she had not been so westernised, she would be with her husband now; Not proved

iv. her XXX ex-husband was shocked when he discovered she was not a virgin and he felt he had to protect her; Not proved

v. you made comparisons with her sister who was married at sixteen to a cousin; Not proved

vi. she is a mother and a housewife and that's where her priorities are; Not proved

g. in the alternative to your conduct as described in the following paragraphs you failed to record your actions at paragraphs:

i. ~~3.a;~~ Withdrawn under Rule 17(2)(g)

ii. 3.b; Not proved

iii. 3.c; Not proved

iv. 3.d; Not proved

~~v. 3.e.~~ Withdrawn under Rule 17(2)(g)

4. On 15 May 2019 you consulted with Patient B and you failed to:

~~a. obtain information regarding Patient B's:~~

~~i. previous medical history;~~ Withdrawn under Rule 17(2)(g)

~~ii. treatment;~~ Withdrawn under Rule 17(2)(g)

~~iii. prescribed medication;~~ Withdrawn under Rule 17(2)(g)

b. discuss Patient B's ~~presenting complaint of~~ distress caused by; Amended under Rule 17(6):

i. rape; Not proved

ii. blackmail; Not proved

c. ~~document the presence or absence of ongoing medical or physical issues;~~ Withdrawn under Rule 17(2)(g)

d. ~~record your actions in the alternative to the conduct as described in the following paragraphs you failed~~ in the alternative to the conduct as described in the following paragraphs you failed to record your actions at paragraphs; Amended under Rule 17(6):

i. 4.a; Not proved

ii. 4.b. Not proved

Patient C

5. On 11 February 2020, you consulted with Patient C and you:

a. ~~failed to assess his mental capacity by asking questions to ascertain that he was able to~~:

i. ~~understand the information in sufficient detail;~~ Withdrawn under Rule 17(6)

ii. ~~retain information sufficiently;~~ Withdrawn under Rule 17(6)

iii. ~~consider information sufficiently;~~ Withdrawn under Rule 17(6)

iv. ~~reach a balanced decision;~~ Withdrawn under Rule 17(6)

v. ~~communicate his decision;~~ Withdrawn under Rule 17(6)

~~b. failed to complete a risk assessment regarding:~~

i. ~~suicide;~~ Withdrawn under Rule 17(2)(g)

ii. ~~self-harm;~~ Withdrawn under Rule 17(2)(g)

iii. ~~harm to others;~~ Withdrawn under Rule 17(2)(g)

iv. ~~self neglect;~~ Withdrawn under Rule 17(2)(g)

~~c. failed to obtain informed consent to reduce the prescription of Olanzapine;~~ Withdrawn under Rule 17(2)(g)

~~d. prematurely told him to reduce and stop Olanzapine;~~ Withdrawn under Rule 17(2)(g)

~~e. made further changes to his prescribed medicine without waiting for three to four months of stability following the Olanzapine withdrawal;~~ Withdrawn under Rule 17(6)

~~f. inappropriately told him to take his medication as required, which included:~~

i. ~~Pregabalin;~~ Withdrawn under Rule 17(6)

ii. ~~Mirtazapine;~~ Withdrawn under Rule 17(6)

iii. ~~Venlafaxine;~~ Withdrawn under Rule 17(6)

~~g. failed to give complete advice on how to reduce his medication, in that you did not advise:~~

i. ~~gradual withdrawal of Pregabalin over a period of at least one week;~~ Withdrawn under Rule 17(6)

~~ii. gradual withdrawal of Mirtazapine over several weeks;~~ Withdrawn under Rule 17(6)

~~iii. gradual withdrawal of Venlafaxine over several weeks;~~ Withdrawn under Rule 17(6)

~~h. failed to ensure that the referral to occupational therapy was achieved;~~ Withdrawn under Rule 17(6)

~~i. failed to write a supporting letter for submission towards Personal Independence Payment;~~ Withdrawn under Rule 17(6)

j. communicated inappropriately and/or unprofessionally with Patient C in that you:

i. called him 'brother'; Not proved

ii. used a tone that was:

i. accusatory; Not proved

ii. aggressive; Not proved

iii. mocking; Not proved

iv. judging; Not proved

v. belittling; Not proved

iii. made inappropriate comments, including:

i. 'get a grip' or words to that effect; Not proved

ii. that there were 'big changes to come', or words to that effect, with no context; Not proved

iii. that his medicine would 'kill him', or words to that effect, with no context; Not proved

iv. that he should 'pull himself together', or words to that effect; Not proved

iv. introduced religion into the consultation by using Arabic terminology; Not proved

v. introduced moral values into the consultation by discussing marriage; Not proved

vi. undermined and criticized the treatment provided by his previous Consultant Psychiatrist; Not proved

k. failed to arrange an additional psychiatric outpatient review; Withdrawn under Rule 17(6)

l. failed to ensure he understood the information by providing:

i. a copy of the clinical letter; Withdrawn under Rule 17(6)

ii. less detailed written information; Withdrawn under Rule 17(6)

m. in the alternative to your conduct as described in the following paragraphs, you failed to record your actions at paragraphs:

i. 5.a; Withdrawn under Rule 17(6)

ii. 5.b; Withdrawn under Rule 17(2)(g)

iii. 5.c; Withdrawn under Rule 17(6)

iv. 5.g; Withdrawn under Rule 17(6)

v. 5.h; Withdrawn under Rule 17(6)

vi. 5.k; Withdrawn under Rule 17(6)

vii. 5.l. Withdrawn under Rule 17(6)

6. On 12 February 2020, when Patient C requested a further discussion, you failed to respond to the request. Withdrawn under Rule 17(6)

7. On 21 February 2020, when Patient C requested to view the typed clinical letter dated 12 February 2020, you failed to respond to the request. Withdrawn under Rule 17(6)

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

Determination on Impairment - 26/08/2022

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

## The Evidence

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

## Submissions

On behalf of the GMC

3. Mr Rankin made no submissions.

On behalf of Dr Ahmed

4. Mr Bennett submitted that at best the conduct could be described as subpar and therefore does not meet the threshold of serious misconduct.

## The Relevant Legal Principles

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

6. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious, and then whether the finding of that misconduct which was serious, could lead to a finding of impairment.

7. Further, the Legally Qualified Chair added the following directions of law:

> *"We are now at the stage where we determine whether or not Dr Ahmed's fitness to practice is impaired.*
>
> *That is a matter for our judgement. There is no applicable standard. We do not, for example, have to ask ourselves whether it is more likely than not that Dr Ahmed's fitness to practise is impaired.*

*We will approach the determination in the following way. First, we will decide on the basis of the facts which have been proved, whether there has been misconduct, and whether that misconduct can be described as serious.*

*If we do not judge that the facts constitute a finding of serious misconduct, then we need go no further. Dr Ahmed' s fitness to practise will not be impaired.*

*If we judge that they do then we would go on to the second stage which is to decide whether, as a result, Dr Ahmed's fitness to practise is impaired today and looking forward.*

*I do not intend to give any legal guidance about that issue until the Panel has made its decision as to whether the facts proved amount to serious misconduct."*

## The Tribunal's Determination on Impairment

Misconduct

8. The Tribunal first considered whether Dr Ahmed's actions found proved at paragraph 3(c)(i) of the Allegation amounted to misconduct.

9. The Tribunal was of the view that this isolated instance of failure to give information about potential withdrawal effects in context of the medication having been of the lowest dosage and short duration, does not amount to misconduct.

10. The Tribunal noted that Patient A asserted she experienced side effects, however, none were mentioned until she made her witness statement to the GMC and the Tribunal further noted that Dr Ahmed arranged an appointment two weeks later to check how she had dealt with tapering of the medication.

11. The Tribunal reminded itself that Dr F said this conduct, if found proved, fell below the standard expected of a reasonably competent consultant Psychiatrist, but not seriously below.

12. The Tribunal, having regard to its finding on the facts and Dr Ahmed's thirty-year unblemished record concluded that the single allegation found proved was insufficient to amount to serious misconduct.

13. The Tribunal, therefore, concluded that Dr Ahmed's conduct did not fall so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Impairment

14. The Tribunal has therefore determined that Dr Ahmed's fitness to practise is not impaired.

15. Given the submissions made by parties and the Tribunal's findings in relation to misconduct and impairment, the Tribunal determined that further consideration of a warning was not necessary for the same reasons that it determined the misconduct was not serious and that no further action is required.

16. XXX

17. That concludes the case.

ANNEX A – 26/08/2022

## Application to amend the Allegation

1. Mr Rankin made two applications:

   i. to withdraw paragraphs: 1b (v), 2a (i), 2f, 2g (i), 3a (i), 5a, e, f, g, h, i, k, l, m(i), m(iii-vii), 6 and 7 of the Allegation.

   ii. pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') to amend paragraphs 1a-f inclusive by amending the date from 6 April to 13 April 2018.

## Submissions

On behalf of the GMC

2. Mr Rankin submitted that:

   i. in respect of paragraph 1(i) above, having reviewed the evidence, the GMC no longer wished to proceed with those Allegations described in paragraph 1(i); and

   ii. in respect of paragraph 1(ii) above, it was accepted by all parties that the conduct complained of arose as the result of a consultation which occurred on 13 April 2018 not 6 April 2013 and that there had been no consultation on 6 April.

On behalf of Dr Ahmed

3. Mr Bennett did not oppose either application. All parties knew which consultation was being referred to and this was a technical rather than a substantive amendment which caused no injustice to Dr Ahmed.

## The Tribunal's Approach

4. It is a matter for the GMC to determine the charges to be brought based upon an assessment of the evidence and the application threshold. The GMC was of the opinion, having reviewed all of the evidence, considered the expert evidence of Dr G produced on behalf of Dr Ahmed and reviewed the outcome of the joint experts' meeting that there was insufficient evidence to continue with the identified heads of charge.

5. Pursuant to Rule 17(6) of the Rules:

"*Where, at any time, it appears to the Medical Practitioners Tribunal that—*

*(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended;* and

*(b) the amendment can be made without injustice, it may, after hearing the parties, amend the allegation in appropriate terms."*

6. In relation to the amendment of the date, all parties accepted that the consultation from which all of the allegations described in paragraph 1 of the Allegations arose did not occur on 6 April 2018 but on 13 April 2018, and that the incorrect date in the Allegation was an error. The Tribunal noted that Dr Ahmed himself noticed this error and identified the correct date of the consultation complained about in his witness statement dated 13 July 2022. Accordingly, the Tribunal concluded that no injustice would be caused as a result of the amendment.

## The Tribunal's Decision

7. For the reasons explained in paragraphs 4 – 6 above, both applications were granted.

## ANNEX B – 26/08/2022

## Application to amend the Allegation

115. Mr Rankin applied pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') to amend paragraph 4(d) as follows:

*"d.* ~~*record your actions in the alternative to the conduct as described in the following paragraphs you failed*~~ *in the alternative to the conduct described in the following paragraphs you failed to record your actions at paragraphs …"*

<u>On behalf of the GMC</u>

116. Mr Rankin submitted that the original Allegation was not in line with others of a similar nature, that it was clear that there had been a typographical error when the Allegation had been *"cut and pasted"* and that this was not an error of substance.

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

117. Mr Bennett did not oppose the application. Mr Bennett conceded that he had not noticed the typographical error, it related to inconsequential rewording of a sub-paragraph of the Allegation and did not cause any injustice to Dr Ahmed.

## The Tribunal's Approach

118. Pursuant to Rule 17(6) of the Rules:

"*Where, at any time, it appears to the Medical Practitioners Tribunal that—*

*(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended;*

*and*

*(b) the amendment can be made without injustice,*

*it may, after hearing the parties, amend the allegation in appropriate term"*

119. The Allegation as drafted did not make sense. There were, however, other similar Allegations, both parties accepted that the current wording of Allegation 4(d) was the result of a typographical error, and each understood clearly what the charge was intended to convey. The Tribunal was concerned to ensure that all charges read correctly in order that it could determine whether the charge is proved or not. This cannot occur if a charge cannot be understood. The focus of the Tribunal's concern, however, is to ensure that Dr Ahmed did not suffer any injustice as the result of late amendment. Having heard both of the parties, and in light of Mr Bennett's concession, the Tribunal was satisfied that no injustice would occur.

## The Tribunal's Decision

120. For the reasons explained in paragraph 5 above, the application to amend was granted.

## ANNEX C – 26/08/2022

## Application under rule 36 (1) b, to treat Patients A, B and C as Vulnerable Witnesses

121. Mr Rankin, Counsel, on behalf of the GMC, made an application pursuant to Rule 36 (1)(b) and Rule 36(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') for Patients A, B and C to be treated as vulnerable witnesses and for special measures to be applied to each witness.

122. In relation to Patients A and C, who are to give evidence via remote link, the application is for Dr Ahmed to turn off his camera and mute his microphone throughout their giving evidence so that he cannot be seen or heard by either witness. In relation to Patient B, who wishes to give evidence in person, the application is for screens, or, if Dr Ahmed chose to attend the hearing remotely on the day that Patient B gives evidence, for Dr Ahmed to turn off his camera and mute his microphone so that he cannot be seen or heard by Patient B during the giving of her evidence.

123. Mr Rankin provided a special measures bundle containing evidence in support of his application.

## Submissions

On behalf of the GMC

124. Mr Rankin submitted that Patients A, B and C should be treated as vulnerable witnesses because:

i. The medical records bundles show that Patients A, B and C have complained of, been diagnosed with, and have been treated for, various conditions which fall within the Mental Health Act 1983 definition of a 'disorder of the mind';
ii. Patients A, B and C have provided recent statements in which each one states that they have a current diagnosis which falls within the Mental Health Act 1983 definition of a 'disorder of the mind';

125. Mr Rankin further submitted that if the Tribunal accepts that Patients A, B and C are vulnerable witnesses then pursuant to Rule 36(1)(b) they are entitled to special measures.

126. The special measures sought are either to give evidence by way of video link with Dr Ahmed's camera and microphone switched off, if he is appearing remotely, or for the screens to be utilised if he is attending in-person. Mr Rankin added that each of the three witnesses have indicated that they do not wish to see Dr Ahmed so as to protect their mental health.

127. Mr Rankin submitted that if each application is not granted the quality of the evidence of each of Patients A, B and C is likely to be adversely affected as a result.

128. Mr Rankin further submitted that the use of special measures was commonplace and entirely normal in courts and tribunals, the MPTS did not involve a jury but is comprised of experienced members and that the Tribunal would not therefore be prejudiced or biased because of the grant of special measures.

On behalf of Dr Ahmed

129. Mr Bennett submitted that the GMC had advised the Case Manager as early as 10 May 2022 that it would make special measures applications supported by appropriate evidence. By 3 August 2022, all that had been provided was a copy of the medical records of each patient which were identical to the medical record bundle. The Case Manager advised the GMC that this was inadequate, and he required:

*"… cogent evidence of a mental disorder..."*

130. The GMC then submitted three statements dated 3 August 2022, from each patient, Patient B's referred to Patient C. That of Patient C made no reference to any current diagnosis. No current medical evidence about any of the patients was provided.

131. Mr Bennett further submitted that the index case does not involve violence or sexual assault which is when such measures are normally applied. He added, in direct response to Mr Rankin's submission, that although such cases are increasingly the norm, special measures should not be granted unless the qualifying criteria set out in Rule 36 are met. Specifically, Mr Bennett submitted that the GMC must demonstrate that each witness was currently suffering from a medical condition which amounted to a mental disorder within the meaning of the Mental Health Act 1983, that the GMC could not rely upon diagnoses contained within the medical records bundles as these were not current. He further submitted that there was not material upon which the Tribunal could satisfy itself that the quality of the evidence of each of Patients A, B and C would likely be adversely affected if the special measures requested were not granted.

132. Mr Bennett developed his arguments, advancing that as the entire case against Dr Ahmed depended fundamentally upon the reliability and veracity of the evidence of each of Patients A, B and C, statements by each of them asserting that they have a current diagnosis, should be treated with care. He also submitted that neither Patient A nor Patient B had exhibited any accompanying medical evidence supporting the stated mental health condition. He added that the last medical evidence pertaining to Patient B was in 2020.

Further, he said that Patient C asserted that he was unaware that he had been discharged from Small Heath Health Centre (SHHC) and there was no evidence of any mental health intervention since that discharge, some two years ago, either in the form of independent medical evidence or within the statement of Patient C relied upon by the GMC. In fact, Mr Bennett asserted, Patient C's statement merely recited a diagnosis which had been made some considerable time ago and was no longer regarded as current even by Dr Ahmed when he assessed Patient C in 2020. Accordingly, there was no proper evidence that Patient C had a condition which fell within the definition of a mental disorder as required by Rule 36.

133. Mr Bennett submitted that Dr F's statements on four pages of hearing documents with medical notes is not sufficient material under rule 36 to determine that Patients A and B have a mental disorder. He asserted that Dr F's statement simply states that the conditions which led to the referral of each witness is a mental disorder within the Mental Health Act 1983. That is not, he submitted, sufficient to support the application.

## The Tribunal's Approach

134. The Tribunal considered the provisions of Rule 36. Each application was made pursuant to Rule 36(1)(b). This required the GMC to show, in the first instance, in respect of each witness, that the witness had a mental disorder within the meaning of the Mental Health Act 1983. The Tribunal accepted Mr Bennett's submission that this required evidence of a current disorder.

135. If the Tribunal was satisfied that the qualifying criteria was met (namely that a specific witness had a mental disorder within the meaning of the Mental Health Act 1983), Rule 36(1) only allows a witness to be treated as a vulnerable witness where the quality of their evidence is likely to be affected as a result of that disorder.

136. The Tribunal considered the material that was provided to it and noted that there was no current medical evidence in respect of Patients A, B or C. The Tribunal noted that there was also no information from any witness as to why, assuming that they have a mental disorder within the meaning of the Mental Health Act 1983, and given the nature of the allegations, the quality of their evidence was likely to be affected. None of the witness statements gave any explanation of their concerns.

137. The Tribunal further noted that the statement from Patient B in support of the application was not signed. The statement of Patient C relied upon a diagnosis given over two

years ago and that, as Patient C had been discharged from SHHC and all psychotropic medication ended following his last appointment there, there was no evidence before the Tribunal of him having a current diagnosis of any condition falling within the definition of a mental disorder.

138. In relation to Patient A, the Tribunal noted that Patient A's statement referred to her being under the care of a psychiatrist and having a current diagnosis, but that this was not supported by any form of independent medical evidence.

## The Tribunal's Decision

139. In reaching its decision, the Tribunal considered whether sufficient evidence existed to confirm Patients A – C as vulnerable witnesses.

140. The Tribunal noted that Dr F, in the evidence presented, did not address issues regarding the test for vulnerability. Also, the Tribunal found that Dr F had not examined Patients A, B or C nor reviewed recent medical notes belonging to these patients.

141. The Tribunal agreed Dr Ahmed was not facing allegations of a violent or sexual nature. Their complaints concerned comments which each attributed to Dr Ahmed and decisions made by Dr Ahmed in relation to their ongoing treatment. The GMC had not explored in any way with Patient A, B or C whether, and if so why, the quality of their evidence would be adversely affected in the absence of the special measures sought.

142. The Tribunal acknowledged that the recent statement from Patient A, which was signed by her, stated that she was under the care of a psychiatrist for postpartum depression and that the GMC believed that she was a nursing mother. The Tribunal also acknowledged that each witness asserted that they have been the victim of historic sexual abuse, however, this was not the subject matter of these proceedings.

143. The Tribunal agreed with the submission of Mr Bennett, that the GMC had had since 10 May 2022 to secure evidence to support an application for special measures for each witness, no steps appear to have been taken until 3 August and that as of the today's date, there was still no signed statement from Patient B in support of the application.

144. Overall, the Tribunal decided that:

i. In relation to Patient A, there was no medical evidence to support that she has a current diagnosis which would amount to a mental disorder. Given her recent signed statement, however, the Tribunal were concerned that further enquiries were made by the GMC prior to the commencement of her evidence given the lateness of the application and indicated that it would re-visit the application if further material was provided.

ii. In relation to Patient B, the Tribunal decided that it would re-visit the application if it was provided with a signed statement as to her current diagnosis with some supporting evidence including why the quality of her evidence may be adversely affected as a result.

iii. In relation to Patient C, the Tribunal concluded that there was no evidence that this witness was currently receiving any treatment for a mental disorder or that he had any current diagnosis of a mental disorder within the meaning of the Mental Health Act. Accordingly Patient C did not fulfil the fundamental criteria required to be treated as a vulnerable witness within Rule 36(1)(b) and was therefore not entitled to special measures pursuant to Rule 36(2).

145. The Tribunal was of the view that however "commonplace" giving evidence using special measures had become, it was still incumbent upon a party applying for special measures to provide appropriate material to satisfy the Tribunal that the provisions of Rule 36 were satisfied. It noted, however, that Dr Ahmed had requested that he attend remotely whilst each of Patients A to C gave their evidence. It was open to the parties to reach an agreement that Dr Ahmed turn off his camera and microphone when each gave evidence and, if they did so, it may assist the smooth progress of the hearing. The Tribunal made clear that Dr Ahmed would not be prejudiced in any way should the special measures applied for be used following pragmatic agreement between the Parties.

ANNEX D – 26/08/2022

Application to Amend the Allegation

146. Mr Rankin, following the conclusion of Dr F's witness evidence, made an application to amend paragraphs: 3b and 4b of the Allegation as follows:

*"3(b). failed to discuss Patient B's presenting complaint of distress caused by …;* and

*4(b). discuss Patient B's presenting complaint of distress caused by; …"*

147. This application was made in accordance with Rule 17(6) of the Rules:

"*Where, at any time, it appears to the Medical Practitioners Tribunal that—*

*(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and*

*(b) the amendment can be made without injustice,*

*it may, after hearing the parties, amend the allegation in appropriate terms."*

## Submissions

On behalf of the GMC

148. Mr Rankin submitted that during the course of his evidence, Dr F had explained that rape and blackmail were not "presenting complaints". Dr F and Dr G agreed that the presenting complaint was the distress caused by the rape and blackmail. Each party understood, however, what the Allegation, as originally drafted, was intended to convey and Dr Ahmed would not be prejudiced in his defence in any way even given the lateness of the application to amend.

149. Furthermore, Mr Rankin submitted, Mr Bennett on behalf of Dr Ahmed did not object to these amendments and conceded that no prejudice or injustice would result from them.

On behalf of Dr Ahmed

150. Mr Bennett conceded that no injustice could be occasioned to Dr Ahmed and confirmed that he does not oppose the application.

## The Tribunal's Approach

151. The Tribunal considered the provisions of Rule 17(6), the agreement between the parties, the evidence of both experts which clarified the Allegation and reminded itself that both parties had confirmed that the amendment could be made without injustice.

## The Tribunal's Decision

152. The Tribunal noted that Mr Bennett did not object to the proposed amendments and was of the view that the amendments could be made without injustice to Dr Ahmed. The Tribunal determined to grant Mr Rankin's application for the amendment of the Allegation, as set out above.

ANNEX E – 26/08/2022

Application of No Case to Answer Under Rule 17(2)(g)

1. At the close of the GMC's case, Mr Bennett, on behalf of Dr Ahmed, made an application pursuant to Rule 17(2)(g) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules').

2. Rule 17(2)(g) provides:

*"the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld."*

Submissions

On behalf of Dr Ahmed

3. Mr Bennett submitted that there was no evidence upon which the Tribunal, properly directed, could find paragraphs: 1a(i-iv), 1b(i-iv), 1d, 1f(i -ii), 2b-e, 2g(v-vi), 3a(ii -iii), 3e (i-iii), 3g(i), 3g(v), 4a(i-iii), 4c, 5b(i-iv), 5c-d, 5m(ii) of the Allegation proved.

4. Mr Bennett reminded the Tribunal of the evidence of Dr F in respect of each of those allegations, namely that a reasonable body of consultant psychiatrists could have acted or not acted in the same way as Dr Ahmed. Accordingly, he submitted, there was no evidence that the behaviour complained of in each allegation fell below the standard expected.

On behalf of the GMC

5. Mr Rankin submitted that he does not oppose the application.

The Tribunal's Approach

6. The Legally Qualified Chair provided the following legal advice:

1. *Rule 17(2) (g) of the General Medical Council (Fitness to Practise) Rules Order of Council 2004 provides that*

   *(g) the practitioner may make submissions regarding whether sufficient evidence has been adduced to find the facts proved or to support a finding of impairment, and the FTP Panel shall consider and announce its decision as to whether any such submissions should be upheld.*

2. *The test is set out by Lord Lane within R v Galbraith [1981] 1 WLR 1039 p.1042 which was considered in R v Shippey [1988] Crim LR 767 .*

   1 *The Panel must consider whether, taking the evidence at its highest, the particular charge is capable of being proved to the required standard. The Panel must remind itself that the burden of proof is on the GMC and that the civil standard of proof applies; namely, on the balance of probabilities. The Panel must also remember that it is not reaching any findings of fact at this stage."*

   2 *The matter should be approached in the following way:*

   i *First: if there is no evidence that the charge alleged has been committed, the charge must be dismissed.*

   ii *Second: if there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence the charge must also be dismissed. Where however the GMC evidence is such that its strength or weaknesses depends on the Tribunal's view of a witnesses reliability, or other matters within the province of the Tribunal, and where on one possible view of the facts there is evidence on which a Tribunal could properly come to the conclusion that a particular allegation(s) can be found proved, then the matter shall proceed.*

   3 *The Tribunal will consider the evidence as a whole and will not cherry pick certain parts of the evidence.*

4 *If the Tribunal allows a submission in relation to any head of charge, it will give detailed reasons for doing so. Sharaf v General Medical Council [2013] EWHC 3332 (Admin) Carr J para 38."*

## The Tribunal's Decision

7. The Tribunal agreed that Dr F, during the course of his evidence, conceded that a reasonable body of psychiatrists could have acted the same way or given the same advice Dr Ahmed did and as such his conduct with regard to the specific paragraphs of the Allegation detailed would not fall below the standard expected of a reasonably competent psychiatrist.

8. In response to a re-examination question from Mr Rankin, Dr F confirmed the response he had given to Mr Bennett. He said, in terms, that Dr G's opinion, in respect of the relevant paragraphs of the Allegation, was as valid as his.

9. Mr Bennett's submission was made under the first limb of Galbraith. In light of the answers provided by Dr F the Tribunal agree that there was no evidence under which any of those heads of charge could be proved. Accordingly the Tribunal granted Mr Bennett's unopposed application and concluded that there was no case to answer in respect of paragraphs: 1a(i-iv), 1b(i-iv), 1d, 1f(i -ii), 2b-e, 2g(v-vi), 3a(ii -iii), 3e (i-iii), 3g(i), 3g(v), 4a(i-iii), 4c, 5b(i-iv), 5c-d, 5m(ii) of the Allegation.