PUBLIC RECORD

Dates: 23/11/2022 - 29/11/2022

Medical Practitioner's name:	Dr Manjit JASPAL
GMC reference number:	4032650
Primary medical qualification:	MB ChB 1993 University of Dundee

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	No facts found proved	Consideration of impairment not reached

Summary of outcome

Case concluded

Tribunal:

Legally Qualified Chair	Mrs Tehniat Watson
Lay Tribunal Member:	Mr Darren Shenton
Medical Tribunal Member:	Dr Pavan Rao

Tribunal Clerk:	Mr John Poole

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Tom Day, Counsel, instructed by MDDUS
GMC Representative:	Ms Katie Jones, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 29/11/2022

Background

1. Dr Jaspal qualified in 1993 from the University of Dundee and went on to train in general practice. He joined the General Practitioner's Performers List in 1998 and became a GP partner at Cheylesmore Surgery ('the Surgery') in March 1999. He is currently the Managing GP Partner at the Surgery, having taken on this role in 2014. Dr Jaspal is also the Primary care network clinical director for four surgeries.

2. The Allegation that has led to Dr Jaspal's hearing can be summarised as follows. It is alleged that during the consultation on 9 October 2009 and during one or more consultations between 10 October 2009 and 12 December 2010, Dr Jaspal undertook vaginal examinations on Patient A when it was not clinically indicated and that he did so without obtaining valid consent and without offering Patient A a chaperone. It is the GMC's case that Dr Jaspal's conduct was sexually motivated.

3. The initial concerns were raised with the GMC on 9 February 2020 by Patient A, by way of an online complaint. In her online complaint to the GMC, Patient A stated that she had not raised her concern previously because she thought no one would believe her. However, after confiding in others, she had grown in confidence and decided to make her complaint.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Jaspal is as follows:

1. Between 2009 and 12 December 2010 you treated Patient A at Cheylesmore Surgery and:

    a. on 9 October 2009 you performed a vaginal examination on Patient A:

i. when it was not clinically indicated; To be determined

ii. and you failed to offer Patient A a chaperone; To be determined

iii. without valid consent; To be determined

iv. and, in the alternative to paragraph 1ai, you failed to record any clinical indication for a vaginal examination; To be determined

b. during one or more consultations between 10 October 2009 and 12 December 2010, you performed a vaginal examination on Patient A:

i. when it was not clinically indicated; To be determined

ii. and you failed to offer Patient A a chaperone; To be determined

iii. without valid consent; To be determined

iv. and before doing so you said "do you think we should have a little look down there" or words to that effect; To be determined

v. and you failed to ensure the curtain was fully closed when Patient A got undressed; To be determined

vi. and you failed to record the examination in Patient A's medical records. To be determined

2. Your conduct as described at paragraph 1 was sexually motivated. To be determined

The Facts to be Determined

5. Dr Jaspal made no admissions. Accordingly, the Tribunal was required to determine the entirety of the Allegation.

Witness Evidence

6. The Tribunal received evidence on behalf of the GMC from the following witnesses through their witness statements and via video link:

- Patient A.
- Mr B, Patient A's partner.
- Ms C, Patient A's friend.

7. Dr Jaspal provided his own witness statement, dated 15 July 2022, and also gave oral evidence at the hearing. In addition, the Tribunal received evidence from the following testimonial witnesses on Dr Jaspal's behalf via video link:

- Dr D, General Practitioner.
- Mrs E, Practice Manager at the Surgery.

Expert Witness Evidence

8. The Tribunal received evidence from two expert witnesses via video link:

- Dr F, General Practitioner, instructed on behalf of the GMC; and
- Dr G, General Medical Practitioner, instructed on behalf of Dr Jaspal.

9. Dr F provided a report dated 24 January 2022 and a supplemental report dated 22 July 2022. Dr F made his supplemental report after having considered Dr Jaspal's witness statement. Dr G provided a report dated July 2022 and a supplemental report dated 11 August 2022. The experts also produced a joint report dated 6 October 2022.

Documentary Evidence

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

- Patient A's complaint to the Practice Manager at the Surgery, dated 14 February 2020, and the response from the Practice Manager to Patient A on 25 February 2020;
- Patient A's online complaint to the GMC, dated 19 February 2020;
- Various medical records pertaining to Patient A;
- Email correspondence from the Surgery regarding the date it moved premises.

The Tribunal's Approach

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

12. The Legally Qualified Chair (LQC) provided legal advice to the Tribunal. It included but was not limited to, advice on the way to approach the evidence and assess the credibility of the witness. She advised that the best approach is to base factual findings on inferences drawn from documentary evidence, where available, and known or probable facts. The LQC drew the Tribunal's attention to the cases of *R (Dutta) v General Medical Council [2020] EWHC 1974 (Admin), Khan v The General Medical Council [2021] EWHC 374 (Admin) and Gestmin v Credit Suisse 2013 EWCA 3560* . These make clear that it is a mistake to make any assumption about either the accuracy of recall of a memory, or to inform findings through the appearance of a witness giving evidence.

13. The LQC also reminded the Tribunal not to rely exclusively on a witness's demeanour when giving evidence. When considering the evidence of any witness, the Tribunal should bear in mind the extent to which the passage of time may have affected their memory. The Tribunal must form a view of what happened in this case, based on all the evidence it has heard, including any inconsistencies and what effect they may have on a witness's truthfulness. The LQC advised that an honest witness can be mistaken and that a mistake in regard to one fact does not necessarily make them wrong about every fact.

14. The LQC made a good character direction. Dr Jaspal's good character must be considered by the Tribunal when assessing his credibility and the likelihood of him having done what has been alleged. His good character is not a defence to the allegation, it is simply one factor to consider when considering all of the evidence in the round. The weight to assign Dr Jaspal's good character is a matter for the Tribunal to determine.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1a

1. Between 2009 and 12 December 2010 you treated Patient A at Cheylesmore Surgery and:

    a. on 9 October 2009 you performed a vaginal examination on Patient A:

        i. when it was not clinically indicated; **Not proved**

        ii. and you failed to offer Patient A a chaperone; **Not proved**

        iii. without valid consent; **Not proved**

        iv. and, in the alternative to paragraph 1ai, you failed to record any clinical indication for a vaginal examination; **Not proved**

16. The Tribunal first considered whether on 9 October 2009 Dr Jaspal performed a vaginal examination on Patient A.

17. Patient A did not have a specific memory of the consultation on 9 October 2009 and she does not mention this date in her witness statement. Similarly, Dr Jaspal does not have a memory of this consultation. Indeed, Dr Jaspal's evidence was that he could not recall Patient A at all; in his statement he said:

> *'This GMC investigation concerns allegations arising from consultations held during 2009 and 2010. At the outset, I would wish to underline that I have no recollection whatsoever of Patient A, nor of any of the consultations identified. These consultations*

took place over ten years ago and I am afraid I simply have no memory of this patient. I imagine I have seen in the region of 70,000 patients in the last decade. I have revisited the GP records in order to prepare this statement and I am thus guided simply by the records and my usual practice…'

18. The Tribunal had regard to the contemporaneous medical record for 9 October 2009 which records a high vaginal swab having been taken *(H VS taken)*. Further there was no dispute as to a medical examination having taken place on this date. Accordingly, the Tribunal was satisfied that a vaginal examination was performed on Patient A on 9 October 2009.

Paragraph 1ai

19. The Tribunal considered whether a vaginal examination was clinically indicated. It bore in mind that both experts gave evidence that a vaginal examination was clinically indicated.

20. In Dr F' supplemental report he stated that:

'It is more likely than not that there was a valid clinical indication for the vaginal examination on 9.10.09 The notes that day record "discharge." Discharge may either be a symptom (something that the patient has noticed and reports to the doctor) or a sign (something that the doctor discovers on examination). It can be both being reported by the patient and being seen by the doctor. On 9.10.09 the contemporary written record does record the presence of the discharge seen on speculum examination. A high vaginal swab was taken. Subsequent microbiological examination of this confirmed the presence of thrush (candida albicans). Hence we have evidence that there was a medical problem present on 9.10.09 and this would mean that the speculum vaginal examination done by Dr Jaspal had a valid clinical indication. It would be justified clinical medicine at an adequate clinical standard.'

21. In Dr G's report he stated:

'Although Dr Jaspal's continuation entry does not clearly document the reason for a vaginal examination on this occasion, it seems evident from the entry he made on the ultrasound request the same day that Patient A was complaining of right-sided pelvic pain. In addition Dr Jaspal recorded that she had a white discharge which led to him taking a high vaginal swab (HVS). The swab was subsequently reported to show a profuse growth of Candida which would be in-keeping with a white vaginal discharge. There was no reference to a vaginal discharge at the previous consultation of 2 October 2009. In my opinion, on the basis that the symptoms of discharge and pelvic pain were new, a vaginal examination was clinically indicated since it would not be possible to take an HVS without performing such an examination and symptoms of pelvic pain are also a valid reason to conduct such an examination.'

22. In his oral evidence, Dr G stated that whilst the medical record pertaining to 9 October 2009 is not clear as to what is 'history' and what is 'examination', as a speculum was used for the examination as opposed to it being a bi-manual examination, reference to '*white discharge'* is more likely to be part of the history reported by the patient. Dr G further reiterated that the reference to 'pelvic pain' on the ultrasound referral document, was not a clinical finding but a symptom. Both experts agreed that there was sufficient information in the notes, taken as a whole, that performing a vaginal examination on 9 October 2022 was clinically indicated.

23. The Tribunal accepted the opinion of the experts, which was confirmed in their oral evidence, and it was satisfied that a vaginal examination was clinically indicated on 9 October 2009. Accordingly, the Tribunal found paragraph 1ai not proved.

Paragraph 1aii

24. The Tribunal then considered whether Dr Jaspal failed to offer Patient A a chaperone on 9 October 2009.

25. In Patient A's witness statement she stated that apart from her very first vaginal examination with Dr Jaspal (2 October 2009), he never offered her a chaperone during any of her consultations and he would just say *''I think we should have a check down there''.* Patient A did not make any specific reference to the consultation on 9 October 2009 in her written statement and confirmed that her memory of the appointments that followed the first examination is *''very hazy''*.

26. In Dr Jaspal's witness statement he stated:

> *'I am unable to recall whether or not I offered Patient A a chaperone on this occasion. I accept that my notes for 9 October 2009 do not record the presence of a chaperone, nor that a chaperone was offered and declined. I believe that if a chaperone had been present I would have documented their name, as on 2 October 2009. I have no reason to think that I would have deviated from my usual practice, which has always been to offer a chaperone for intimate examinations. That said, I do accept that I may not have routinely documented where a chaperone was offered and declined..'*

27. The expert evidence was that Dr Jaspal should have offered a chaperone and recorded the offer in the notes, whether the offer was accepted or not. This would have been as per the guidance about intimate examinations, Maintaining Boundaries, published 2006. However, the Tribunal also heard that at the time of the events, it was not unusual for GPs to not record whether a chaperone was offered. Dr G stated that it was not universally being recorded and in 2009, there was less of an emphasis on 'defensive' record keeping.

28. The Tribunal heard evidence that Dr Jaspal saw 45-50 patients per day for four and a half days per week, plus what were described as *''emergency walks-ins''*. He stated that he did not record every detail of each consultation, particularly a negative recording in relation

to a chaperone being offered and declined. The Tribunal noted Dr Jaspal's evidence that he would concentrate on the patients' needs in the limited time he had for an appointment and not as much on note taking. However, the Tribunal did see evidence that when a chaperone was offered and present, a positive recording was made in the notes. The Tribunal accepted his evidence that his usual practice at the time may have been to not routinely document where a chaperone was offered and declined.

29. The Tribunal determined that it was more likely than not that Dr Jaspal did offer a chaperone as per his usual practice but had failed to make a negative recording. Accordingly, the Tribunal found paragraph 1aii not proved.

Paragraph 1aiii

30. The Tribunal next considered whether Dr Jaspal performed the vaginal examination on Patient A without valid consent.

31. Whilst Dr Jaspal did not record in the notes that consent was obtained for the examination, the Tribunal was mindful that there was a clinical indication for it to be performed.

32. In Dr Jaspal's evidence he stated that he was certain he would have undertaken the vaginal examination with consent as per his usual practice. In his written statement, he stated that:

> *'Obtaining valid consent is a fundamental part of practising as a doctor and something that we learn at early stages of our training. I have never conducted, and would never conduct, an intimate examination, such as this, without first explaining it to the patient and obtaining their consent for the examination. I do accept that I have not specifically documented that patient consent was obtained...'*

33. During the course of his oral evidence to the Tribunal, Dr Jaspal reiterated that he would always obtain consent for intimate examinations verbally but not record the consent within the medical records.

34. In Dr F supplemental report he stated:

> *'There is no evidence the examination is being done for any reason apart from clinical medicine. Dr Jaspal has not recorded the consent process used. It would most likely be a verbal process of explanation followed by agreement with the patient. The medical records do not give direct evidence about this. However Dr Jaspal's statement of 15.7.22 does give evidence of his usual practice in such scenarios and I think it is more likely than not that he would have followed his usual practice on this occasion.'*

35. The experts agree in their joint report that *'this* (consent*) would not necessarily or ordinarily have been recorded in the notes'.*

36. The Tribunal was cognisant that there was no evidence that Patient A had declined consent for the examination on 9 October 2009 and in her evidence she had stated that she wanted the investigations to progress at that time.

37. The Tribunal had no reason to consider that Dr Jaspal did not follow his usual practice. It determined that it is more likely than not that there was valid consent for the vaginal examination on 9 October 2009. Accordingly, the Tribunal found paragraph 1aiii not proved.

Paragraph 1aiv

38. Having found paragraph 1ai of the Allegation not proved, the Tribunal considered whether Dr Jaspal failed to record any clinical indication for a vaginal examination.

39. The Tribunal had regard to the expert evidence. In his expert report, Dr G's opined:

> *'Although the continuation note made by dr Jaspal on 9 October 2009 is not explicit in this regard, in my view his additional entry made on the ultrasound request form and his HVS investigation (which subsequently confirmed a candidal infection in-keeping with a vaginal discharge) both provided corroborating records of a reasonable clinical indication for the examination. Whilst Dr Jaspal's record-keeping in this respect could have been improved, in the context of a typical time-limited GP consultation I do not consider that the records were below standard since another GP looking at the entries overall could appreciate the reason for the examination.'*

40. The Tribunal further noted that whilst there was no NICE guidance in force at the time in respect of the standards expected in medical records, the version of Good Medical Practice (GMP) in force at the time 2006 – 2013 did give clear guidance on respect of keeping clear, accurate and legible notes.

41. The Tribunal further considered the joint reports of the experts and in particular where it stated:

> *'The notes are not as good as they could have been. The consultation was a busy one with several symptoms – ear problem, chest problem, vaginal discharge. Much examination was done, a swab taken and sent , and ultrasound was requested. General practice is always done under time pressure and Dr Jaspal has done a lot of things within this consultation. The recording is not as good as it could be, but this reflects the time pressures of working in UK general medical practice'.*

42. Dr Jaspal accepted that his note for the consultation on 9 October 2009 was brief and attributed this to the time pressure and the multiple issues he had covered in the consultation. He stated however that *'the clinical indication for the examination is obvious and apparent on the basis of the notes.'*

43. Notwithstanding the brevity of the record, the Tribunal determined that the clinical indication for the vaginal examination was apparent for another GP looking at the entries and therefore there wasn't a failure to record any clinical indication for a vaginal examination. The Tribunal therefore found paragraph 1aiv not proved.

Paragraph 1b

1. Between 2009 and 12 December 2010 you treated Patient A at Cheylesmore Surgery and:

b. during one or more consultations between 10 October 2009 and 12 December 2010, you performed a vaginal examination on Patient A:

i. when it was not clinically indicated; Not proved

ii. and you failed to offer Patient A a chaperone; Not proved

iii. without valid consent; Not proved

iv. and before doing so you said "do you think we should have a little look down there" or words to that effect; Not proved

v. and you failed to ensure the curtain was fully closed when Patient A got undressed; Not proved

vi. and you failed to record the examination in Patient A's medical records. Not proved

44. The Tribunal considered whether, between 10 October 2009 and 12 December 2020, during one or more consultations, Dr Jaspal performed a vaginal examination on Patient A.

45. This is a factual matter for the Tribunal to decide as the medical notes do not record any further vaginal examination during Dr Jaspal's consultations with Patient A during this period. Dr Jaspal denies that such examinations took place in this period. Patient A's evidence was that vaginal examinations were undertaken in this period.

46. In his oral evidence, Dr Jaspal firmly denied that he undertook any vaginal examinations of Patient A other than the two documented on 2 and 9 October 2009. In his written evidence, he stated:

> *'I can see no entry to suggest further vaginal examinations were undertaken by me, beyond the two examinations that I conducted on 2 and 9 October 2009.*
>
> *The notes demonstrate that I did see Patient A over a number of other appointments and for a range of different symptoms typically seen in general practice. I did not*

perform a vaginal examination during any of these consultations. There would have been no reason for me to do so given the presenting symptoms. I deny this allegation..'

47. In Patient A's written evidence she described her memory of her appointments with Dr Jaspal after the 2 October 2009 examination, as 'very hazy'.

48. In Patient A's statement she stated that she believes that she first met Dr Jaspal in 2009 although she acknowledges that from her records she can see that she in fact first met him on 24 September 2008, when a dermatological referral was made as noted in her medical records.

49. In oral evidence, Patient A conceded that in fact she did not have any specific recollection of why she attended the appointments and agreed that perhaps her memory in general may not be good but that she did remember things that were stuck in her mind and had an impact on her.

50. Further in her oral evidence, Patient A confirmed her written account that in around October 2009 she didn't want birth control tablets as she wanted her body to be healthy.

51. In her statement she stated that:

'Dr Jaspal asked me a lot about birth control (as he continued to do so at many other appointments that followed) which I thought was a little odd especially as I wasn't sexually active at the time. I didn't want birth control tablets as I wanted my body to be healthy and menstruate again on its own…'

52. However, according to her medical records Patient A was being prescribed oral contraceptive pills repeatedly during 2009 and had two injections in 2011 for long term contraception. When asked about this in cross-examination Patient A had no recollection of this, despite conceding that this would have been something which would have an impact on her. Patient A's evidence was inconsistent in this regard and the Tribunal noted that Patient A was in fact adamant that her recollection on this could not be doubted to the extent that she wondered whether there may have been another medical purpose for the two long term contraceptive injections.

53. In respect of the number of times she had been examined, Patient A had initially stated in her complaint to the GMC in February 2020, that a vaginal examination had occurred at *every* appointment with Dr Jaspal, however on reflection she states '*at what felt like the majority appointments...*'. Patient A further stated:

'I just remember that at a lot of these appointments after this point, Dr Jaspal insisted that he should perform a vaginal examination. I believe this happened six or so times…'

54. The Tribunal noted that the medical records indicated that Patient A had 14 consultation appointments with Dr Jaspal from when she joined the Surgery in 2008, to when the Surgery moved to its new premises. Thereafter, there were 6 consultations between Patient A and Dr Jaspal at the new premises until Patient A deregistered. The Tribunal also noted that the consultations with Dr Jaspal were interspersed with other appointments with other GPs and medical practitioners in the Surgery.

55. Patient A initially stated that she thought that the vaginal examinations kept happening until the end of 2012. She also confirmed that she did not recollect any vaginal examinations taking place at the new premises of the Surgery. However, when pointed out to her that the Surgery had moved to new premises on 13 December 2010, Patient A conceded that she could not recall when the vaginal examinations ended. Patient A's account of when she thought the examinations had stopped was not considered to reliable by the Tribunal.

56. In considering the reliability of the evidence provided by Patient A, the Tribunal noted the following.

- Patient A stated that a speculum had been used during the vaginal examination she had on 2 October 2009, whilst the medical records showed that a speculum had been used during the examination on 9 October 2009.

- Patient A's evidence was that part of the reason for her appointment on 2 October 2009 had been for the issue with her hands, in addition to the Amenorrhea, whilst the medical notes for 2 October 2009 did not mention this issue and document a dermatological referral on other appointments such as 24 September 2008 and 13 November 2009.

- Patient A states in her written and oral evidence that she left the appointment on 2 October 2009 *'questioning in my head why Dr Jaspal had to do a vaginal examination.'* The Tribunal noted that this was despite there being a clinical indication for the examination and Patient A having herself presented with Amenorrhea.

- The Tribunal also had sight of a letter dated 2 June 2010 from Coventry Sexual Health Service Department of Genitourinary medicine (GUM Clinic) which references Patient A's attendance in November 2009 during which time she had an intimate or vaginal examination. In her evidence to the Tribunal Patient A recalled attending the GUM Clinic but was unable to identify the period of this examination.

57. The Tribunal acknowledged Patient A's difficulties with recollecting events from over a decade ago and determined that this did call into question the reliability of her memory.

58. The Tribunal considered Patient A's evidence in relation to missing appointments with Dr Jaspal. In her witness stated Patient A stated that:

'I believe that at a high percentage of appointments Dr Jaspal asked to examine my vagina and I felt pressured into agreeing to this because he was my doctor, even though I felt it wasn't appropriate and not related to the issue I would be presenting with. I remember not showing up to appointments because I just didn't want to be asked and feel under pressure or obliged to for him to do the examination on me because he "thinks its best"….'

59. It is however evident from the medical records that Patient A did not miss an appointment at the Surgery until March 2012. At this point she missed two appointments, and these were with a female doctor, Dr H and the Practice Nurse Ms I. Thereafter and until the time when Patient A deregistered at the Surgery, she missed three appointments in total with Dr H/Ms I and three appointments with Dr Jaspal, but these missed appointments were interspersed amongst other attended appointments including with Dr Jaspal. When challenged during cross examination, Patient A claimed that by 'missing appointments' she meant cancelling them or never actually making them in the first place. The Tribunal considered Patient A's evidence in this regard was not supported by the medical records. It considered her evidence to be inconsistent and weak and was not persuaded by her version of events.

60. The Tribunal further considered Patient A's evidence in relation to why she did not ask to see another doctor or move to a difference practice due to her concerns.

61. Patient A said that she placed her trust in Dr Jaspal but remembers questioning herself as to why an examination would be needed and remembers feeling angry and scared. In her evidence she stated that it never *''entered her mind''* to move to a different surgery and that she did not want to speak to another doctor about her experience as that would be *''disrespectful''*.

62. The Tribunal also acknowledged Patient A's account that she may not have wanted to speak to a nurse or a receptionist about her concern as she felt embarrassed and ashamed. It also bore in mind Patient A's account that she *''just wanted to get out''* of the surgery, rather than speak to a receptionist or a nurse.

63. The Tribunal noted that Patient A had moved surgeries previously in 2008, when she was registered with the XXX Medical Centre and had felt that she was not being listened to. She stated:

'…I did not feel like I had been listened to at all and I left this appointment in tears…

At this point in my life I would say that I was feeling very stressed out and I felt at a loss as to what to do. It seemed that I wasn't being listened to despite reaching out for help. I remember I felt so low that I called the Samaritans. I had a massive workload XXX. I was in a very vulnerable place.

I recall that as I felt like I had not been listened to by the doctor at the XXX Centre I decided to book an appointment at an external doctors Surgery to see a different doctor away from the XXX.'

64. The Tribunal also noted the evidence of Ms C, whom Patient A had confided in, in respect of her concerns pertaining to Dr Jaspal. Ms C stated that:

'In late 2010 or early 2011 Patient A disclosed to me some concerns she has regarding Dr Jaspal. Patient A told me that Dr Jaspal would pester her for intimate vaginal examination during their appointment. I told her this was unusual, and she was entitled to know the reason for the examination and ask for a chaperone.

I recall thinking it was strange that Dr Jaspal was asking for intimate examination which was not routine. I advised Patient A to see a different doctor and remember her saying "oh okay" but seemed worried. I am unsure if she attended the practice again after this conversation…'

65. The Tribunal further considered the oral account provided by Ms C. She confirmed that Patient A had reported to her *'a sense of unease'* relating to her appointments and lack of clarity as to the examinations. Ms C confirmed that she had told Patient A that she was entitled to know the reasons for the examination and that if she was uncomfortable, she could ask for another GP at the Surgery and could also ask for a chaperone. Ms C agreed that this conversation could have taken place at any point between the end of 2009 – 2011.

66. As a medical professional in training herself, Ms C confirmed that had Patient A reported more serious concerns to her, such as stating that she was subjected to a vaginal examination when attending for routine issues unrelated to any vaginal symptoms, then she would have told Patient A that the concern would have been a *'red flag'* and would have had to have been raised to a much higher level.

67. The Tribunal considered Patient A's action in continuing to attend appointments with Dr Jaspal and not seeking another doctor, to be inconsistent with the serious nature of the conduct she alleged, particularly having had the advice that she had had from Ms C.

68. In addition to Ms C, the Tribunal heard evidence from Mr B, the now husband of Patient A. His evidence was generic in supporting the allegations made by Patient A. He could offer no further detail to events that had occurred over a decade ago. The Tribunal were unable to place great weight on his evidence due to the passage of time and its lack of specificity.

69. The Tribunal remained cognisant of the fact that Patient A's medical records showed that she had had a breast examination on 8 September 2009, a vaginal examination on 2 October 2009, another vaginal examination on 9 October 2009 and another vaginal examination at the GUM clinic in November 2009. Patient A also underwent an ultrasound procedure in October 2009. The Tribunal were of the view that these were a significant

amount of intimate and uncomfortable examinations and procedures in a small space of time which Patient A had to undergo. The Tribunal also noted that Patient A, had confirmed that during this period, XXX, she was feeling stressed and overwhelmed.

70. The Tribunal took into account all of the evidence. It bore in mind the significant period of time between Dr Jaspal's alleged misconduct and Patient A making her complaint to the GMC. It considered that Patient A's evidence was confused by the lapse in time and fallibility of memory and that it was not inconceivable that Patient A had conflated various uncomfortable examinations and experiences at a time when she was stressed and overwhelmed.

71. The Tribunal was of the view that overall Patient A did not have a clear and cogent recollection of the material facts and her evidence in cross examination demonstrated that her recollection could not be safely relied upon. Her evidence was based on events many years earlier and was at many parts inconsistent, contradictory and not credible.

72. The Tribunal also took into account Dr Jaspal's good character. It determined that the GMC had not met the required standard of proof that Dr Jaspal acted in the way alleged.

73. Accordingly, Tribunal determined that the allegation at 1b, 'during one or more consultations between 10 October 2009 and 12 December 2020, you (Dr Jaspal) performed a vaginal examination on Patient A', was not proved. Accordingly, it followed that the Tribunal found paragraph 1bi-vi also not proved.

Paragraph 2

2. Your conduct as described at paragraph 1 was sexually motivated. **Not proved**

74. Given the Tribunal's findings in respect to paragraph 1a and 1b, it follows that paragraph 2 falls away.

The Tribunal's Overall Determination on the Facts

75. The Tribunal has determined the facts as follows:

1. Between 2009 and 12 December 2010 you treated Patient A at Cheylesmore Surgery and:

    a. on 9 October 2009 you performed a vaginal examination on Patient A:

        i. when it was not clinically indicated; **Not proved**

        ii. and you failed to offer Patient A a chaperone; **Not proved**

        iii. without valid consent; **Not proved**

iv. and, in the alternative to paragraph 1ai, you failed to record any clinical indication for a vaginal examination; Not proved

b. during one or more consultations between 10 October 2009 and 12 December 2010, you performed a vaginal examination on Patient A:

i. when it was not clinically indicated; Not proved

ii. and you failed to offer Patient A a chaperone; Not proved

iii. without valid consent; Not proved

iv. and before doing so you said "do you think we should have a little look down there" or words to that effect; Not proved

v. and you failed to ensure the curtain was fully closed when Patient A got undressed; Not proved

vi. and you failed to record the examination in Patient A's medical records. Not proved

2. Your conduct as described at paragraph 1 was sexually motivated. Not proved

76. As the Facts have not been found proved it therefore follows that Dr Jaspal's fitness to practise is not impaired.