PRIVATE RECORD

Dates: 09/05/2023 - 17/05/2023

Medical Practitioner's name:	Dr Maxwell DUGBOYELE
GMC reference number:	5191132
Primary medical qualification:	MB ChB 1995 University of Ghana

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

Summary of outcome

Warning

Tribunal:

Legally Qualified Chair	Mrs Claire Lindley
Lay Tribunal Member:	Mr Inderjeet Gill
Medical Tribunal Member:	Dr Louis Savage

Tribunal Clerk:	Mr John Poole

Attendance and Representation:

Medical Practitioner:	Present and not represented
GMC Representative:	Ms Jennifer Devans-Tamakloe, 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 - 12/05/2023

Background

1. Dr Dugboyele qualified as a doctor in 1995 from the University of Ghana. He moved to the United Kingdom in 1997 to pursue speciality training in XXX. At the time of the events that are the subject of this hearing, he was working as a Specialty Grade doctor in XXX at XXX Trust ('the Trust'). He worked there from March 2008 until March 2021.

2. The Allegation that has led to Dr Dugboyele's hearing relates to his conduct towards seven colleagues at the Trust, which took place between May 2017 and September 2020. It is alleged that, over that period of time, he behaved towards each of the colleagues, as described in Paragraphs 1- 12 of the Allegation. In general terms, it is alleged that his behaviour constituted a course of conduct of inappropriately touching his colleagues on a regular basis, when such behaviour was not wanted. The touching included examples such as stroking, hugging, rubbing the shoulders of, and putting his arms around, female colleagues in the workplace.

3. It is then alleged that this behaviour amounted to an abuse of his professional position, in that the XXX felt that they could not challenge his behaviour nor report or prevent his actions.

4. It is further alleged that this behaviour amounted to sexual harassment, in that he engaged in this unwanted conduct and that it related to a protected characteristic, namely the sex of the complainants. This conduct is said to have had the purpose or effect of violating the dignity of those colleagues or creating an intimidating, hostile, degrading, humiliating or offensive environment.

5. As a consequence of a formal complaint from Ms G, The Trust commenced a disciplinary investigation in autumn 2020 and seven XXX made complaints and were interviewed along with other witnesses.

6. Dr Dugboyele left the Trust in March 2021. He currently works at the XXX Trust as a middle grade doctor in XXX.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Dugboyele is as follows:

1. On one or more occasions between May 2017 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms A in that you:

    a. hugged her; **Admitted and found proved**

    b. put your arm around her:

        i. shoulders; **Admitted and found proved**

        ii. waist; **Admitted and found proved**

    c. held onto her wrist to prevent her walking away; **Admitted and found proved**

    d. deliberately stood in her way in the corridor; **Admitted and found proved**

    e. failed to stop your behaviour when Ms A asked you to stop touching her or words to that effect. **Admitted and found proved**

2. On one or more occasions between 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms B in that you:

    a. hugged her; **Admitted and found proved**

    b. continued to hug her when asked to stop; **Admitted and found proved**

    c. held her hand; **Admitted and found proved**

    d. blocked doorways causing her to brush past you. **Admitted and found proved**

3. On one or more occasions between 2016 and July 2019, you behaved inappropriately whilst at work towards your colleague Ms C in that you hugged her. **Admitted and found proved**

4. On one or more occasions between January 2019 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms D in that you:

    a. put your arm around her:

        i. waist; **Admitted and found proved**

        ii. shoulders; **Admitted and found proved**

b. blocked her path into the staff room by standing in the doorway with your arm across; **Admitted and found proved**

c. held her hand; **Admitted and found proved**

d. tickled her waist. **Admitted and found proved**

5. On one or more occasions between June 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms E in that you:

a. put your arm around her; **Admitted and found proved**

b. hugged her; **Admitted and found proved**

c. held her hand; **Admitted and found proved**

d. stroked the back of her hand. **Admitted and found proved**

6. On one or more occasions between 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms F in that you:

a. hugged her; **Admitted and found proved**

b. held her hand; **Admitted and found proved**

c. touched her:

i. waist; **Admitted and found proved**

ii. hips; **Admitted and found proved**

iii. abdomen; **Admitted and found proved**

d. kissed her cheek. **To be determined**

7. On a date in or around 2017 you behaved inappropriately whilst at work towards your colleague Ms F in that you gave her a close hug and pressed your hips towards her so that your genitals made contact with her. **To be determined**

8. On one or more occasions between April 2018 and January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

a. touched her:

i. shoulders; **Admitted and found proved**

ii. back; **Admitted and found proved**

iii. hips; **Admitted and found proved**

b. said Ms G was very attractive, or words to that effect; To be determined

c. asked her if she had a boyfriend. To be determined

9. On a date in January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

a. wrapped your arms around her chest from behind; To be determined

b. squeezed her; To be determined

c. touched her hair; To be determined

d. kissed the side of her neck. To be determined

10. On one or more occasions between January and September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

a. rubbed her shoulders; Admitted and found proved

b. stroked her lower back; To be determined

c. held her hips; To be determined

d. attempted to trap her against a wall; Admitted and found proved

e. failed to stop your behaviour when Ms G asked you not to touch her or words to that effect. To be determined

11. On or around 8 September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that, despite Ms G telling you not to touch her hair, you:

a. pulled out her hair bobble; To be determined

b. touched her hair; Admitted and found proved

c. played with her hair; Admitted and found proved

d. plaited her hair. Admitted and found proved

12. Your actions as described at Paragraphs 1 – 11 were an abuse of your professional position in that your female colleagues did not feel able to:

a. challenge your behaviour; Admitted and found proved

b. prevent your actions; Admitted and found proved

c. report your actions. Admitted and found proved

13. Yours actions were unlawful sexual harassment related to sex by virtue of Section 26 of the Equality Act 2010, in that you engaged in unwanted conduct related to sex which had the purpose or effect of violating the dignity of or creating an intimidating, hostile, degrading, humiliating or offensive environment for:

a. Ms A in respect of paragraph 1; **Admitted and found proved**

b. Ms B in respect of paragraph 2; **Admitted and found proved**

c. Ms C in respect of paragraph 3; **Admitted and found proved**

d. Ms D in respect of paragraph 4; **Admitted and found proved**

e. Ms E in respect of paragraph 5; **Admitted and found proved**

f. Ms F in respect of paragraphs 6 – 7; **Admitted and found proved**

g. Ms G in respect of paragraphs 8 – 11. **Admitted and found proved**

The Outcome of Applications Made during the Facts Stage

8. Dr Dugboyele was not represented. GMC was represented by Ms Devans-Tamakloe.

9. There were no applications made during the facts stage. There had been a Case Management Hearing that had taken place before the start of the proceedings, and it had been agreed that Ms G was the only witness that needed to be called to give oral evidence. Due to the nature of the evidence that she was going to give, Dr Dugboyele had agreed to disable his camera, and the Tribunal service had arranged for Special Counsel, Mr Livesey, to cross-examine the witness on Dr Dugboyele's behalf.

10. Dr Dugboyele confirmed that Ms F did not need to be called to give evidence and understood that this meant he would not be able to cross-examine her and test the evidence in her witness statement. The option to test the evidence of Ms A, Ms B, Ms C, Ms D, Ms E and Ms F, was available to him via Mr Livesey. In not choosing to call these witnesses, it was explained by both the LQC and GMC Counsel to Dr Dugboyele that he was accepting their evidence.

The Admitted Facts

11. Dr Dugboyele had sent a schedule of admissions dated 20 March 2023, setting out which paragraphs he admitted and which he denied. He had added comments in relation to certain paragraphs, explaining his actions. GMC counsel did not seek to persuade the Tribunal not to accept the Doctor's explanations for his behaviour in relation to these admissions, so they were accepted on that basis. The Tribunal will consider these comments, and the other colleagues accounts in more detail when deciding whether the Doctor's actions amount to serious professional misconduct at the impairment stage of proceedings.

12. Counsel for the GMC, Ms Devans-Tamakloe, confirmed that the GMC case related to abuse of professional position and sexual harassment and that there was no allegation of sexual motivation. On that understanding, Dr Dugboyele admitted Paragraph 13, which he had initially denied.

13. At the outset of these proceedings, Dr Dugboyele then confirmed the admissions as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules').

14. In accordance with Rule 17(2)(e) of the Rules, the Tribunal then announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

15. Dr Dugboyele had denied some paragraphs of the Allegation, so the Tribunal then proceeded to make a determination of facts in relation to those.

Witness Evidence

16. The Tribunal received oral evidence on behalf of the GMC from Ms G, a student XXX at the time of the events.

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

- Ms A, Ms B, Ms C, Ms D, Ms E, Ms F. These witnesses were all work colleagues and had made complaints about Dr Dugboyele.
- Ms H, XXX at XXX Trust. She provided a witness statement dated 9 September 2021
- Dr I, consultant XXX and Clinical Director of XXX at XXX Trust. She provided a witness statement dated 29 September 2021
- Ms J, XXX and safeguarding lead at the Trust. She provided a witness statement dated 8 November 2021

18. Dr Dugboyele provided his own witness statement and the schedule of admissions. He also gave oral evidence at the hearing and provided an opening to his oral evidence, dated 9 May 2023.

19. The Tribunal also received testimonial evidence on behalf of Dr Dugboyele in the form of character references from:

- Dr K, Clinical Director for XXX at XXX Trust, dated 19 January 2023
- Ms L, Director of XXX at XXX Trust, dated 27 January 2023

Documentary Evidence

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

- Written statements provided during the Trust investigation by the XXX and others involved in the Trust, as well as the minutes of the Trust interviews.
- An email dated 21 March 2018 from Dr I to Dr Dugboyele.
- Dr Dugboyele's Rule 7 response
- Colleague Feedback.

The Tribunal's Approach

LQC Advice

21. In reaching its decision on facts, the Tribunal should bear in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Dugboyele does not need to prove anything.

22. The case of *Byrne v GMC [2021] EWHC 2237 (Admin)* confirms that there is only one standard of proof in civil and regulatory cases and that remains that of the balance of probabilities, i.e., whether it is more likely than not that the events occurred. The *probability* of the relevant conduct is a matter which can be taken into account when weighing up and deciding whether the event or conduct occurred; this goes to the quality of evidence.

23. The Tribunal must consider each of the paragraphs that are denied separately on their merits. It is possible, depending on the circumstances, that the Tribunal's decision on one paragraph, or the Doctor's admissions, might assist in coming to a conclusion on another paragraph. Nevertheless, the Tribunal should reach a separate, independent decision on each of the paragraphs requiring determination, having focused on each separately and having firstly formed a separate decision about it.

24. Some of the paragraphs of the Allegation refer to conduct having taken place 'between' two dates. These are multiple incident paragraphs and the test that the Tribunal should apply is whether the conduct happened in the period on more than one occasion between the two points in time. The test is not whether the conduct happened throughout that period, and neither does the Tribunal need to stipulate how many times it thinks that the behaviour happened as it is a course of conduct that it is being asked to consider. Similarly, other paragraphs refer to conduct having taken place "on a date in or around 2017", and "on or around September 2018." In those circumstances, again the Tribunal does not need to decide if the conduct occurred at a specific time but is being asked to decide if the alleged conduct occurred as described by the paragraph and within the time span mentioned.

25. The Tribunal should consider carefully all the oral and written evidence adduced and the oral and written submissions made by GMC counsel and the Doctor, it being accepted that submissions are not evidence.

26. This case involves sexual harassment. The Tribunal is therefore cautioned against applying stereotyped images of how an alleged victim or an alleged perpetrator of an allegation of this nature ought to have behaved at the time, or ought to appear while giving evidence. Instead, the Tribunal is to judge the evidence on its merits and should note for example that:

a. People react differently to behaviour of this sort. Tribunals should not downplay the potential seriousness of an incident or the significance of its impact upon a complainant on the basis of their outward reaction.

b. Some may complain immediately whilst others feel shame and shock and do not complain for some time;

c. A timely complaint is not necessarily true just because it was made.

27. The case of *R (on the application of Dutta) v GMC (2020) EWHC1974 (Admin)* sets out the approach to be taken when considering oral evidence. Oral evidence is the common law gold standard. The Tribunal should note that the incidents relating to Ms G date back to 2020, and so the passage of time is a factor as memories can fade. The Tribunal should therefore navigate the evidence by looking at contemporaneous material such as documents as a starting point although actual corroboration of a witness account is not legally necessary. The Tribunal must assess oral evidence in the round and not just rely on the demeanour of the witness. A confident witness may give unreliable evidence. A nervous and hesitant witness may give reliable evidence.

28. Nothing in the advice from the LQC is suggesting that the Tribunal should assume the guilt of the Doctor. He has given evidence in this matter. The Tribunal must judge the Doctor's evidence by precisely the same fair standards as applies to any other evidence in the case.

29. The Tribunal should note that a witness statement with a signed statement of truth is also to be treated as if it were given as oral evidence. However, there is some hearsay in this case, that is statements from witnesses who heard accounts from others but did not witness incidents themselves. Although this evidence can be taken into account if relevant, the Tribunal should be aware that it is likely to carry less weight than direct evidence.

30. In summary, the Tribunal should have regard to the whole of the evidence and form its own judgement about the witnesses, and which evidence is reliable, and which is not.

31. Counsel for the GMC has confirmed that a good character direction can be given. Therefore, the Tribunal will have in mind that the Doctor is a man of good character. This means that he had no criminal convictions or cautions or adverse regulatory findings. The Tribunal is reminded that the Doctor is

(a) more likely to be telling the truth in his evidence, and

(b) might be less likely to have behaved in a way as set out in the Allegation.

32. However, good character of itself does not amount to a defence and its significance should not be over inflated. The primary focus should be on the evidence related to the wrongdoing.

33. The Tribunal has been referred by the Doctor to two testimonials from his present hospital. The Tribunal is reminded that matters of pure mitigation should not be taken into consideration at this stage, but in the context of the likelihood or otherwise of the Doctor having behaved in the way alleged, the Tribunal should consider them and attach what weight it considers appropriate.

34. Procedural fairness requires that the Tribunal should give reasons for its findings. If the Tribunal prefers the witness's version of events over that of the Doctor, then it should make clear why the Doctor's evidence has been rejected. *(R (Mokhammed) v GMC [2021] EWHC 2889).*

The Tribunal's Analysis of the Evidence and Findings

35. 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.

36. Throughout its determination the Tribunal took into account that Dr Dugobyele is of good character and there have been two character references submitted.

Paragraph 6d

> *6. On one or more occasions between 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms F in that you:*
>
> *d. kissed her cheek.*

37. In Ms F's witness statement to the GMC dated 6 January 2022, she stated that Dr Dugboyele '*would give me normal hugs, touch my arm, touch my shoulder or give me a hug and a peck on the cheek...'*

38. In Ms F's witness statement to the Trust dated 12 October 2020, she stated that:

> *'For as long as I have known Dr Max Dugboyele, he has always been tactile in his physical behaviour towards me, it is not uncommon for him to take my hand, put his hands on my shoulders, hug me or occasionally kiss my cheek while conversing with him. I have witnessed him acting in the same way with many other female members of staff including XXX and medical staff. I cannot remember the first time he behaved in this way; it just has always been 'the way he is''*

39. The Tribunal also had regard to the minutes of the Trust interview with Ms F, dated 20 October 2020, in which Ms F stated:

> *'I suppose after a matter of time, things settled to how they've been previously, he would give me a hug, touch my shoulder, hug me and peck my check [sic]…'*

40. The Tribunal noted that Ms F had given three broadly consistent accounts, i.e., her initial complaint to the Trust, her statement to the Trust investigator and her statement to the GMC. In each she describes that Dr Dugboyele had on numerous occasions, kissed/'pecked' her cheek.

41. The Tribunal noted that Ms C, in her statement to the GMC, stated that Ms F told her that she was *'really uncomfortable'* with Dr Dugboyele.

42. The Tribunal bore in mind that Dr Dugboyele had admitted to Paragraph 6a-c of the Allegation, that is that on one or more occasions, he hugged Ms F, held her hand, and touched her waist, hips and abdomen. However, he denied kissing Ms F on the cheek. In his witness statement to the GMC, Dr Dugboyele stated that:

> *'I had worked with Ms F for many years, and we were on good terms. My interactions with Ms F were as with other colleagues. I had on occasion hugged her, held her hand, put an arm across her shoulders or her waist. I may have touched her waist, hips, and abdomen when I hugged her or put an arm around her waist but did not deliberately touch her in these areas. I have had my cheek close to hers when I have hugged her but did not kiss her.'*

43. Under cross-examination, Dr Dugboyele maintained that he did not kiss Ms F, but accepted that his cheek may have made contact with Ms F's cheek and that she may have perceived it as a kiss.

44. The Tribunal balanced the documentary accounts given by Ms F of a kiss/ 'peck' being a regular occurrence and ''the way he is'' with Dr Dugboyele's evidence that he only had his cheek close to hers. The Tribunal accepted Ms F's version of events and considered that her description as a whole gave weight to the veracity of her evidence. The Tribunal noted that this conduct was not what made her feel the most uncomfortable nor was it the main reason for raising her concerns with Ms C and so was unlikely to be an embellishment to bolster her complaint.

45. The Tribunal considered that in the absence of a plausible explanation for why Ms F perceived a kiss on her cheek, it is more likely than not to have occurred, and this would be consistent with the course of conduct already admitted to and found proved in respect of Ms F.

46. Accordingly, the Tribunal found **Paragraph 6d proved.**

Paragraph 7

7. On a date in or around 2017 you behaved inappropriately whilst at work towards your colleague Ms F in that you gave her a close hug and pressed your hips towards her so that your genitals made contact with her.

47. The Tribunal noted that Ms F had not provided a specific date when this incident allegedly occurred, and that the Paragraph was drafted as "on a date in or around 2017". Ms F had thought that the incident had taken place after he may have been spoken to, but she had no way of knowing that. The Tribunal noted that Dr I had emailed Dr Dugboyele on 21 March 2018 regarding concerns about his behaviour, and that Dr I had spoken to him sometime before then. The Tribunal was satisfied that 'on a date in or around 2017' could envelope the first few months of 2018. The Tribunal also bore in mind that Dr Dugboyele understood what incident Ms F was referring to.

48. In Ms F's GMC witness statement she recalled that the incident occurred on a day shift at the XXX. She stated that:

'I saw Dr Dugboyele coming up the corridor wearing blue scrubs on the camera and he shouted 'Hi Ms F'. He came over to me to give me a hug but on this instance, he pulled me a little closer than he usually would and I felt his hips push into my hips. As he was wearing scrubs, the trousers were loose fitting and I could feel his genitals bash against me. I had my hand on his shoulder as if it was a normal hug but my gut feeling was that he was trying to test my reaction to the hug. Dr Dugboyele was looking into my eyes and my gut made me want to pull away. I thought that if I did pull away, he would suspect that I was one of the XXX that raised concerns about him and so instead I just froze. It only lasted for a few seconds and then I busied myself with something so that I could move away…'

49. In her statement to the Trust, Ms F described that:

'Whilst giving me a front facing hug on one occasion, as he did so, he held me closer than normal to the point where I could feel his genitals (non-erect) against me. This made me feel distinctly uncomfortable..'

50. Similarly, in the minutes of the Trust interview, Ms F she stated:

'There was one particular incident; he came on to the ward, we were stood alongside the XXX, at the front of the station. I'm sure there were other colleague around at the time. He was always 'Oh Hi ', went to give me a hug, stood facing each other. On this occasion he pulled me closer than normal and I felt his hips press towards me a little bit so much so I could feel his genitals. That made me feel really uncomfortable.'

51. The Tribunal considered that Ms F was consistent in her three accounts.

52. Ms F did not assert that Dr Dugboyele's hug was made deliberately with the intention of his genitals making contact with her. She described this genital contact as more of a consequence of the close hug.

53. In Dr Dugboyele's GMC witness statement, he stated that:

> *'I admit hugging Miss F, but I did not deliberately hug her closely and press my hips towards her so that my genitals made contact with her.'*

54. However, under cross-examination, Dr Dugboyele accepted that it was possible that his genitals could have made contact with Ms F when he hugged her due to his loose-fitting scrub trousers ('theatre blues'). He was clear that his was never his intention.

55. The Tribunal considered the consistency of Ms F's accounts alongside Dr Dugboyele's explanation which accepted that genital contact could have been made unintentionally owing to the clothing worn, and determined that Dr Dugboyele did give Ms F a close hug so that his genitals made contact with her, albeit unintentionally.

56. Accordingly, the Tribunal found **Paragraph 7 proved.**

Paragraph 8b&c

> *8. On one or more occasions between April 2018 and January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:*
>
> *b. said Ms G was very attractive, or words to that effect.*
>
> *c. asked her if she had a boyfriend.*

57. The Tribunal noted that Ms G did not refer to this type of behaviour in her GMC witness statement, but in the minutes of the Trust interview she described that from 2018 to January 2020, Dr Dugboyele:

> *'started to comment on my appearance and that I was very attractive. I never responded as I didn't know what to say. When he used to touch me it was at the desk on the unit, it was on both XXX and XXX, in the staff room. He never did it actively away from other people seeing, because everyone accepted that he was a bit too friendly…*
>
> *His manner of conversation, it never felt quite right. In the context of commenting on my appearance and asking questions about where I'm from, do I have a boyfriend? It was never a conversation I was interested in having. I would just say yes or no. Sometimes if it was a particular question I didn't want to give yes or a no to, I would say you shouldn't ask me that. He would always find it funny…'*

58. Under cross-examination, Ms G maintained that Dr Dugboyele asked her a number of times about her ''personal life''.

59. The Tribunal found Ms G to be a credible witness and considered that whilst she did not mention this behaviour in her GMC witness statement or statement to the Trust, this did not undermine her evidence. The questions about whether Ms G had a boyfriend, and comments about her attractiveness, did not constitute the substance of her complaint about the incident in January 2020.

60. In Dr Dugboyele's GMC witness statement, he stated that:

> *'I never at any point made comments about Miss G's appearance. I never said to Miss G or to anyone else that Miss G was very attractive or make comments or statements to that effect.*
> *I never at any point asked Miss G if she had a boyfriend. My conversations with Miss G were never about our private lives…'*

61. In his oral evidence, Dr Dugboyele was adamant that he would never comment on a colleague's appearance and that this was something he has never done. As for whether he asked Ms G if she had boyfriend, he again denied this said that he *''would not be interested in that at all''.*

62. The Tribunal noted that Ms G was not using these examples to give weight to what happened in January 2020 and were consistent with the description she gave of Dr Dugboyele being over familiar and *'a bit too friendly'* and with his admissions that he touched Ms G's shoulder, back and hips on one or more occasions. The Tribunal accepted Ms G's evidence and considered that it was more likely than not that Dr Dugboyele said Ms G was very attractive and asked if she had a boyfriend.

63. Accordingly, the Tribunal found **Paragraphs 8b & 8c proved.**

Paragraph 9a-d

> *9. On a date in January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:*
>
> *a. wrapped your arms around her chest from behind;*
>
> *b. squeezed her;*
>
> *c. touched her hair;*
>
> *d. kissed the side of her neck*

64. The Tribunal had regard to Ms G's GMC witness statement. She stated that:

'A specific incident occurred involving Dr Dugboyele in January 2020 when I was in the kitchen at work…
It felt like a violation. It felt sexual, he was kissing my neck. I felt taken advantage of…'

65. In Ms G's written recollection of events to the Trust on 8 September 2020, she gave the detail of this incident and stated that:

'In January 2020, I was working a shift on XXX, during a placement with my mentor Ms H. During this shift, I was involved in a XXX that Dr Max Dugboyle was performing. Sometime within the shift, following this XXX, I went to the kitchen to wash up the plates and mugs that were in the sink. I rank the sink full, as there was a lot of washing up and I was stood in the kitchen alone. About halfway through the washing up, Max entered the kitchen. It was just me and him alone in the kitchen, and the door was closed. I turned around with my hands in the sink and said "hello Max", being polite and he said "hello ". I then turned back around to face the sink and continued washing up. I had my back to Max, assuming he was coming into the kitchen to get something or make a drink. Without realising, Max was stood directly behind me and he proceeded to wrap his arms around my chest, whilst stood behind me. I didn't understand what was happening, his arms were very tight around my chest and it felt like he was squeezing me. I had my arms in the sink still, and I couldn't move because of the grip he had around my chest. Max then proceeded to start kissing my neck on the right hand side. I immediately froze and was unable to speak…'

66. The Tribunal also noted the minutes of the Trust interview with Ms G:

'I was in the kitchen doing the washing up, there was quite a lot of washing up, so I ran a sink and started to wash up and he came into the kitchen. It was just me and him in there on XXX. I just turned around and said 'Hi Max', I thought he was coming to make a drink. He walked very slowly over towards me, I was facing the wall washing up, and I had my hands in the water. He slid his arms around my shoulders from behind (Ms G is visibly upset whilst talking, particularly when describing this incident). He slid his arms round and wrapped them around my chest, quite tight, my arms were down in the water. I didn't have my arms free. I thought that was really strange. I didn't know what he was going to do. He moved my hair. I had it in a XXX and he moved XXX. He said 'I'm sorry for taking that XXX away from you'. I said 'I don't know what you're talking about, the only thing I care about is that XXX. I was really confused as I hadn't shown any issues about it. I didn't bat an eyelid that it was a XXX. His arms were still around my chest, my hands were in the water. He didn't say anything. He did a soft gentle laugh and then he just started kissing my neck, around my face and my neck. And I didn't say anything, I froze and felt paralysed. He lent the full weight of his body on me from behind, I was leaning on the sink, still had my hands in the sink. He was squeezing around my chest tightly. Then he just stopped kissing my neck, let go and walked out really slowly…'

67. Whilst Ms G recalled more when giving her second account to the Trust a few weeks later, the Tribunal considered that this did not undermine her evidence as it is conceivable that she remembered more details as she recounted the experience in her mind.

68. The Tribunal noted that Ms G immediately reported the incident in general terms to her supervisor, Ms H at the time. In Ms H's written statement to the Trust she stated Ms G:

> *'Ms G approached me at the desk and said Max had kissed her neck. The way it was told to me at the time, although she wasn't happy with what had happened… Ms G shared the statement with me and it wasn't how it was portrayed to me at the time otherwise I would have gone to Ms N at the time. She more seemed annoyed. She didn't go into too much detail with me, she said he'd kissed her neck, that she was annoyed with him and it was disgusting…'*

69. The Tribunal also found Ms G's oral evidence to be consistent with the earlier accounts that she had given.

70. The Tribunal had regard to Dr Dugboyele's witness statement. He stated that:

> *'On a date in January 2020 while Miss G was in the XXX Kitchen, I did approach her from behind as I entered the kitchen, the sink being situated on the wall directly opposite the door. I placed my hands on her shoulders as I spoke to her but did not wrap my arms around her chest from behind.*
>
> *With my hands on her shoulders as we spoke, I did lean towards her and touch her right cheek with my left cheek.*
>
> *I did not press my body against Miss G, squeeze her, kiss her neck, or touch her hair.*
>
> *I did in the process of giving Miss G a shoulder massage rub her shoulders but did not deliberately at any point stroke her back or hold her hips. I admit I sometimes put an arm around her waist during which my hands may have made contact with her waist...'*

71. Under cross-examination, Dr Dugboyele denied kissing Ms G's cheek but accepted that his cheek touched hers and that she may have perceived this as a kiss.

72. The Tribunal bore in mind that Ms G gave two detailed and consistent accounts of the incident and reported aspects of it to Ms H at the time. The Tribunal preferred Ms G's evidence to that of Dr Dugboyele.

73. The Tribunal was also mindful of its findings earlier that Dr Dugboyele kissed Ms F on the cheek on a number of occasions.

74. Accordingly, the Tribunal found **Paragraphs 9a-d proved.**

Paragraph 10b, c & e

10. On one or more occasions between January and September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

b. stroked her lower back;

c. held her hips;

e. failed to stop your behaviour when Ms G asked you not to touch her or words to that effect.

75. In Ms G's recollection of events to the Trust, she stated:

'Since the event in January 2020, Max has continued to touch me without my consent, including rubbing my shoulders, stroking my lower back, holding my hips – and when I tell Max "please don't touch me" and "please get off of me", he ignores what I say and laughs…

I even tried to stop Max from touching me by asking him to remain 2m away from me, due to COVID, in attempt to make light of the situation. Both a firm, and light approach to asking Max not to touch me have been continually unsuccessful…'

76. Ms G maintained this in oral evidence, stating that this behaviour continued despite her being *"very vocal telling him to stop".*

77. In Dr Dugboyele's witness statement, he said:

'I had become acquainted with Ms G during her placements, and we would often have a general conversation about work and about how she was getting on with her course and studies whenever we met.

My interactions with Miss G were as with other colleagues and I had hugged her, put a hand across her shoulders, put a hand across her waist and held her hand during the time I had come to know her.

I may have touched her shoulders to give her a shoulder massage but did not deliberately touch her back, or her hips.'

78. In his oral evidence, Dr Dugboyele accepted that he made Ms G feel uncomfortable by how he acted and accepted that he hugged her but that this was his way of displaying friendliness.

79. The Tribunal bore in mind Ms G's contemporaneous account and considered that it is more likely than not that Dr Dugboyele stroked Ms G's lower back, held her hips and failed to desist from his behaviour when Ms G ask him not to touch her.

80. The Tribunal also noted that others spoke of similar behaviour from Dr Dugboyele; when she reported this matter, his behaviour did not come as a surprise to work colleagues.

81. Accordingly, the Tribunal therefore found Paragraph 10 b, c & e proved.

Paragraph 11a

11. On or around 8 September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that, despite Ms G telling you not to touch her hair, you:

a. pulled out her hair bobble;

82. In Ms G's witness statement to the GMC, she stated that in regard to the incident on 8 September 2020:

'I was in the staff room, plaiting Ms H's hair. She was coming off nights and going to the beach and I was starting a day shift. Max started playing with my hair despite me asking him not to..'

83. In her recollection of events to the Trust, she stated that:

'I was plaiting Ms H's hair in the staff room before the start of the day shift, and Max entered the staff room. He asked if he could plait my hair and I said no, he could not. He laughed, and walked towards me and I said "do not touch my hair" and he proceeded to pull out my hair bobble and touch my hair. I was pulling my head away and asking him to stop, but he wouldn't and he continued to touch and 'play' with my hair…'

84. In the minutes of the Trust interview, Ms G stated:

'I carried on our conversation about the beach with Ms H. Just chatting. Then he came over and commented that I was doing her hair. We were both like 'yup' as he was stating the obvious. I didn't engage in conversation. I was well over half way with her hair, it normally takes about 5 minutes to do. Then he came over and pulled out my hair bobble. I said, 'what are you doing?', he said I thought we were doing hair. I said don't touch my hair. Then he started to plait it..'

85. The Tribunal also noted Ms H had been present during this incident. In her trust interview she had described:

> *' I wasn't looking that way. I don't think he had a firm grip on her hair. She wasn't comfortable with him touching her. I think he was just playing saying "oh I'm going to plait your hair" . I could kind of see how they were over my shoulder.'*

86. In the minutes of Ms B's Trust interview, the Tribunal read that she had stated that:

> *'Ms G said to me she saw him come up the corridor, he took her bobble out of her hair and played with it her despite her saying do not touch me...'*

87. Ms B made an additional comment in the minutes that Ms G has disclosed this to her on the day she left the hospital, 8 months after the incident.

88. The Tribunal bore in mind that Ms G provided two accounts to the Trust regarding Dr Dugboyele removing her bobble and she had also told this to Ms B. Further, she was consistent in her oral evidence and cross-examination when asked about this, stated *''Yes he removed the bobble and started to plait my hair.''*

89. In Dr Dugboyele's witness statement he said:

> *'On or around the 8 September 2020, I entered the XXX staff room to find Miss G braiding a colleague's hair. The colleague whose hair was being braided was sat at one end of a settee and Miss G was knelling on the settee behind her.*
>
> *I started a conversation and mentioned I could plait hair and could demonstrate this with her hair which was held in a ponytail.*
>
> *I did touch and plait her hair but did not remove or pull out her hair bubble.'*

90. The Tribunal balanced the documentary and oral accounts given by Ms G, which it found to be consistent, with Dr Dugboyele's evidence that it was not possible to remove the bobble and plait Ms G's hair in a minute. The Tribunal accepted Ms G's version of events and considered that her description as a whole gave weight to the veracity of her evidence. The Tribunal noted again that this conduct was not the gravamen of her complaint, nor was it the main reason for raising concerns with Ms C, and so was unlikely to be an embellishment to bolster her complaint.

91. Accordingly, the Tribunal therefore found **Paragraph 11a proved.**

The Tribunal's Overall Determination on the Facts

92. The Tribunal has determined the facts as follows:

1. On one or more occasions between May 2017 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms A in that you:

    a. hugged her; **Admitted and found proved**

    b. put your arm around her:

        i. shoulders; **Admitted and found proved**

        ii. waist; **Admitted and found proved**

    c. held onto her wrist to prevent her walking away; **Admitted and found proved**

    d. deliberately stood in her way in the corridor; **Admitted and found proved**

    e. failed to stop your behaviour when Ms A asked you to stop touching her or words to that effect. **Admitted and found proved**

2. On one or more occasions between 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms B in that you:

    a. hugged her; **Admitted and found proved**

    b. continued to hug her when asked to stop; **Admitted and found proved**

    c. held her hand; **Admitted and found proved**

    d. blocked doorways causing her to brush past you. **Admitted and found proved**

3. On one or more occasions between 2016 and July 2019, you behaved inappropriately whilst at work towards your colleague Ms C in that you hugged her. **Admitted and found proved**

4. On one or more occasions between January 2019 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms D in that you:

    a. put your arm around her:

        i. waist; **Admitted and found proved**

        ii. shoulders; **Admitted and found proved**

    b. blocked her path into the staff room by standing in the doorway with your arm across; **Admitted and found proved**

    c. held her hand; **Admitted and found proved**

d. tickled her waist. **Admitted and found proved**

5. On one or more occasions between June 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms E in that you:

   a. put your arm around her; **Admitted and found proved**

   b. hugged her; **Admitted and found proved**

   c. held her hand; **Admitted and found proved**

   d. stroked the back of her hand. **Admitted and found proved**

6. On one or more occasions between 2016 and 15 September 2020, you behaved inappropriately whilst at work towards your colleague Ms F in that you:

   a. hugged her; **Admitted and found proved**

   b. held her hand; **Admitted and found proved**

   c. touched her:

      i. waist; **Admitted and found proved**

      ii. hips; **Admitted and found proved**

      iii. abdomen; **Admitted and found proved**

   d. kissed her cheek. **Determined and found proved**

7. On a date in or around 2017 you behaved inappropriately whilst at work towards your colleague Ms F in that you gave her a close hug and pressed your hips towards her so that your genitals made contact with her. **Determined and found proved**

8. On one or more occasions between April 2018 and January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

   a. touched her:

      i. shoulders; **Admitted and found proved**

      ii. back; **Admitted and found proved**

      iii. hips; **Admitted and found proved**

   b. said Ms G was very attractive, or words to that effect; **Determined and found proved**

   c. asked her if she had a boyfriend. **Determined and found proved**

9. On a date in January 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

    a. wrapped your arms around her chest from behind; **Determined and found proved**

    b. squeezed her; **Determined and found proved**

    c. touched her hair; **Determined and found proved**

    d. kissed the side of her neck. **Determined and found proved**

10. On one or more occasions between January and September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that you:

    a. rubbed her shoulders; **Admitted and found proved**

    b. stroked her lower back; **Determined and found proved**

    c. held her hips; **Determined and found proved**

    d. attempted to trap her against a wall; **Admitted and found proved**

    e. failed to stop your behaviour when Ms G asked you not to touch her or words to that effect. **Determined and found proved**

11. On or around 8 September 2020, you behaved inappropriately whilst at work towards your colleague Ms G in that, despite Ms G telling you not to touch her hair, you:

    a. pulled out her hair bobble; **Determined and found proved**

    b. touched her hair; **Admitted and found proved**

    c. played with her hair; **Admitted and found proved**

    d. plaited her hair. **Admitted and found proved**

12. Your actions as described at paragraphs 1 – 11 were an abuse of your professional position in that your female colleagues did not feel able to:

    a. challenge your behaviour; **Admitted and found proved**

    b. prevent your actions; **Admitted and found proved**

    c. report your actions. **Admitted and found proved**

13. Yours actions were unlawful sexual harassment related to sex by virtue of Section 26 of the Equality Act 2010, in that you engaged in unwanted conduct related to sex

which had the purpose or effect of violating the dignity of or creating an intimidating, hostile, degrading, humiliating or offensive environment for:

a. Ms A in respect of paragraph 1; **Admitted and found proved**

b. Ms B in respect of paragraph 2; **Admitted and found proved**

c. Ms C in respect of paragraph 3; **Admitted and found proved**

d. Ms D in respect of paragraph 4; **Admitted and found proved**

e. Ms E in respect of paragraph 5; **Admitted and found proved**

f. Ms F in respect of paragraphs 6 – 7; **Admitted and found proved**

g. Ms G in respect of paragraphs 8 – 11. **Admitted and found proved**

Determination on Impairment - 16/05/2023

93. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether Dr Dugboyele's fitness to practise is impaired by reason of misconduct. The Tribunal must take into account the basis of the facts which it has found proved as set out before, and those paragraphs of the Allegation that the Doctor has admitted.

The Evidence

94. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

95. In addition, the Tribunal received further evidence at this stage of the hearing. Dr Dugboyele gave oral evidence, and also provided a document entitled 'Reflection and Evidence of Remediation' dated 15 May 2023. The Tribunal also received a statement from Dr Dugboyele's Responsible Officer, Dr M, from XXX Hospital dated 8 March 2023.

Submissions

Submissions on behalf of the GMC

96. On behalf of the GMC, Ms Devans-Tamakloe provided written submissions which she also read out before the Tribunal. She submitted that Dr Dugboyele's fitness to practise is impaired by reason of misconduct.

97. Ms Devans-Tamakloe reminded the Tribunal of the two-stage test to be adopted as derived from the case of *Cheatle v. General Medical Council* [2009] EWCA 645); the Tribunal

must first consider whether the facts found proved amount to misconduct and second whether Dr Dugboyele's fitness to practise is impaired by reason of misconduct.

98. Ms Devans-Tamakloe reminded the Tribunal of the relevant legal principles to consider in relation to misconduct.

99. Ms Devans-Tamakloe then reminded the Tribunal of what was said by the Privy Council in the *Roylance v. General Medical Council* (No 2) [2000] 1 AC 311:

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

100. Ms Devans-Tamakloe also advised that in the case of *Meadow v. General Medical Council* [2007] 1 All ER 1**,** the Court of Appeal made clear that "misconduct" should not be viewed as anything less than "serious professional misconduct", and that the conduct in any given case must be serious before being described as "misconduct" in a professional context.

101. Ms Devans-Tamakloe submitted that the facts that have been admitted by Dr Dugboyele, in addition to those not admitted but subsequently found proved by the Tribunal, amount to misconduct.

102. Ms Devans-Tamakloe then submitted that as a result of the misconduct, Dr Dugboyele's fitness to practise is currently impaired.

103. Ms Devans-Tamakloe reminded the Tribunal that it must determine whether or not Dr Dugboyele's fitness to practise is impaired today by taking into account his conduct at the time of the events and any relevant factors since then, such as whether the matters are remediable, have been remedied and any likelihood of repetition.

104. Ms Devans-Tamakloe reiterated that the Tribunal should be mindful of its responsibility to uphold the overarching objective, particularly the need to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the members of the profession.

105. Ms Devans-Tamakloe submitted that the following paragraphs of Good Medical Practice (2013 edition) ('GMP') were engaged in this case:

> *'36. You must treat colleagues fairly and with respect.*

65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'

106. In terms of current impairment, Ms Devans-Tamakloe reminded the Tribunal of the approach to follow as suggested by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC & Grant* [2011] EWHC 927 (Admin) and submitted that limbs b and c of the test were engaged in this case. She submitted that *Grant* makes it clear that the Tribunal should determine whether there is a need to uphold professional standards and public confidence in the profession, and whether that would be undermined if a finding of impairment were not made.

107. Ms Devans-Tamakloe submitted that even if the Tribunal determine that there is no ongoing or current risk, the GMC invite the Tribunal still to conclude that a finding of impairment is necessary on public interest grounds, given the nature and seriousness of the paragraphs of the Allegations admitted and found proved.

108. Ms Devans-Tamakloe stated that, looking at the evidence before the Tribunal, it was clear that any attempts at remediation and/or reflection were not undertaken until April 2021.

109. Ms Devans-Tamakloe also referred the Tribunal to the following paragraphs of the Sanctions Guidance (16 November 2020) ('the SG'):

> '*55. Aggravating factors that are likely to lead the tribunal to consider taking more serious action include:*
> *...*
> *b. a failure to work collaboratively with colleagues (see paragraphs 136–138) ...*
> *d. abuse of professional position (see paragraphs 142–150)...*
> *e. sexual misconduct (see paragraphs 149–150)*
>
> *138. More serious outcomes are likely to be appropriate if there are serious findings that involve:*
>
> *...*
> *b. sexual harassment*
>
> *150. Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.*'

110. Ms Devans-Tamakloe submitted, therefore, that there was a strong inference that finding of impairment should be made where allegations such as those pertaining to sexual harassment are found proved.

111. Ms Devans-Tamakloe also pointed out that all paragraphs of the Allegation which were denied by Dr Dugboyele had been found proved.

Dr Dugboyele's submissions

112. Dr Dugboyele gave oral evidence and read out loud the document that he had drafted, entitled 'Reflection and Evidence of Remediation'.

113. Dr Dugboyele relied on the documents that had been produced as part of his Rule 7 response, namely, the letter of apology that he had written, course certificates, his reflection in relation to the Professional Boundaries course, comments he had made during the Fitness to Practice investigation process, colleague feedback, and the two character references from his present hospital.

114. Dr Dugboyele pointed out that there was evidence to show that the XXX trusted him as a clinician, one saying that he was a *"really good clinician" and "not a bad person."* He also stated that he had worked with the consultant, Dr I, for a long time and that she knew that he intended no harm.

115. Dr Dugboyele told the Tribunal that he had taken steps to better understand the ''drives'' behind his behaviour and how best to modify them. He told the Tribunal about the books he had read regarding human behaviour, and the courses he had undertaken and how he had reflected on them. He stated that he put interventions in place to help stop his inappropriate behaviour. He stated that he was grateful for still being allowed to work, as this had provided him the opportunity to demonstrate that the interventions he had put in place were effective.

116. Dr Dugboyele stated that the work he had undertaken to better understand his behaviour had developed into an interest in the study of human factors, and of how their application can improve positive interactions at work, result in a more productive workplace and improve patient experience. He stated he wished he had had the opportunity to put these measures in place at a much earlier stage of his career.

117. Dr Dugboyele also reiterated his apology to all the witnesses and all others who may have been impacted adversely during his time at the Trust.

The Relevant Legal Principles

LQC Advice

118. When considering impairment, the Tribunal must be mindful of the overarching objective of the GMC which is set out in s1 of the Medical Act 1983 (as amended) and requires the Tribunal to:

a. Protect, promote and maintain the health, safety and well-being of the public,

b. Promote and maintain public confidence in the medical profession, and

c. Promote and maintain proper professional standards and conduct for members of that profession.

119. The Tribunal is reminded there is no burden or standard of proof to adopt at this stage and that the decision as to impairment is a matter for the Tribunal's judgement alone.

120. In approaching this decision, the Tribunal will be mindful of the fact that there are 2 parts to the impairment stage of the process. Firstly, the Tribunal must decide whether the facts as found proved amount to misconduct, and then whether the finding of that misconduct leads to a finding of current impairment.

121. 'Misconduct' has no statutory definition. In *Roylance v GMC [No 2] [2000] 1 AC 311* it was said that 'misconduct' should be 'serious misconduct' before the Tribunal should consider fitness to practise. This case stated that misconduct is:

> *'some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.'*

122. The Tribunal should therefore take into account whether the Doctor has departed from the standards sets out in, for example, GMC Guidance or Good Medical Practice (GMP).

123. The word "serious" should be given its ordinary meaning.

124. Collins J in *Nandi v GMC [2004] EWHC* said that misconduct is conduct which would be regarded as deplorable by fellow practitioners.

125. Generally, each instance of misconduct should be considered separately, as to whether it on its own is serious misconduct. However, as there are a number of instances of a similar nature forming this Allegation it is worth considering the case of *Schodlok v GMC [2015] EWCA Civ 769,* which considered whether a Tribunal could find paragraphs, which on their own may be misconduct but not serious misconduct, could cumulatively amount to serious misconduct. This case is general authority that misconduct and serious misconduct cannot be mixed in this way. But LJ Vos does state that if there are a large number of findings of non-serious misconduct, particularly where they are of a similar nature, then it is open in principle for the Tribunal to find that, cumulatively, they are to be regarded as serious misconduct capable of impairing a doctor's fitness to practise. It also states that if the GMC wishes to rely on a doctor's "serious behavioural problem", that should be charged as an incident of misconduct in its own right.

126. If, having decided that there is misconduct as defined, then the Tribunal should consider whether its findings of fact show that the Doctor's fitness to practise is currently impaired.

127. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC & Grant (2011) EWHC 927 (Admin)* ('Grant'), where she sets out some features that are likely to be present when impairment is found.

128. These are where the doctor:

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

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

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

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

129. The Tribunal must determine whether the Doctor's fitness to practice is impaired as of today and looking forward, taking into account its findings, and any relevant factors since. The Tribunal should consider whether the matters are remediable, whether they have been remediated, and the likelihood of repetition.

130. To assist them in this decision, the Tribunal must determine where the doctor has demonstrated insight, and if so to what extent. The Tribunal should not necessarily equate the maintenance of innocence with a lack of insight. It is possible that a doctor may nevertheless show that he fully appreciates the gravity of the matters alleged. It is proper to take into account a doctor's understanding of, and attitude toward the underlying allegation.

131. A doctor could show that they have insight if they:

1. Demonstrate that they have reflected on their own performance or conduct and understand what went wrong.
2. Accept they should have behaved differently in the circumstances.
3. Demonstrate that they understand the impact or potential impact of their performance or conduct.
4. Demonstrate empathy for any individual involved.
5. Take timely steps to remediate and identify how they will act differently in the future to avoid similar issues arising.

132. The Tribunal also has before it two references provided on behalf of the Doctor. The Tribunal should consider these and attach such weight to them as is considered appropriate. As well as considering the features set out in *Grant,* the Tribunal must also determine whether the need to uphold professional standards and maintain public confidence would be undermined if current impairment were not found.

The Tribunal's Determination on Impairment

Misconduct

133. The Tribunal considered Dr Dugboyele's actions towards each of his colleagues as outlined in the Allegation and reminded itself of the effect of Dr Dugboyele's behaviour on his colleagues.

134. It first considered the impact on Ms A (paragraph one of the Allegation).

135. Ms A was a XXX at the time of the events. In her witness statement to the GMC she described Dr Dugboyele as being generally very 'touchy feely' on most shifts. She stated:

> *'I spoke about Dr Dugboyele's behaviour with colleagues at work but didn't escalate it to a manager because I believed that issues have been raised about him before and weren't dealt with properly as he was still displaying the same behaviour, so I didn't feel I could come forward. I was also scared of him finding out because he was quite difficult to work with. If he was in bad mood you knew about it and I would have been too scared to stand up to him and say 'I don't like what you're doing.' I don't think anyone would have said to him 'stop I don't like you touching me' or 'stop doing that'. We would all just try and avoid him so we didn't end up in that situation, or if he did hang on to you, you'd just say you had things to do to get away. I found it very difficult to tell him to stop and I think that others felt the same. Being around him made me feel anxious that he was in a bad mood or worried that he would start being touchy feely. I never gave him the impression that I wanted him to touch me or that I enjoyed it…*
>
> *He made me feel really awkward and uncomfortable…'*

136. The Tribunal considered Dr Dugboyele's actions towards Ms B (paragraph 2 of the Allegation).

137. Ms B was a XXX at the time of the events. In her witness statement to the GMC she stated that when she had started she had been 'pre-warned' that Dr Dugboyele was a bit 'touchy-feely'. She said that had she not been told she would *'have thought he was a bit weird or overfamiliar, but because I was pre-warned it was just accepted behaviour'.*

138. Ms B said that:

'I knew it was wrong and no other doctor I worked with acted like that, but because I was pre-warned I just accepted it and I'm annoyed at myself for putting up with it. It was a total abuse of power, you just don't see it until you put all the jigsaw pieces together to see the bigger picture. I allowed it to happen because it was sometimes the only way I could get him to do what I needed, such as review a patient that needed to be reviewed. Sometimes I would take him a biscuit and a cup of tea to put him in a good mood so he'd do what I needed him to do…'

139. Ms B had a perception that she and others would have to allow Dr Dugboyele to be 'touchy feely' to keep him on their side, to ensure patients got the care they needed.

140. Ms B also stated that Dr Dugboyele never acted this way in front of patients or in private:

'it was always in a public place such as at the XXX or when you were walking down a corridor. The fact that he did it in front of other people sort of normalised it. I saw him acting this way with XXX, but never doctors.'

141. The Tribunal considered Dr Dugboyele's actions towards Ms C (paragraph 3 of the Allegation).

142. Ms C was a XXX at the Trust at the time of the events. In her statement to the GMC, she said:

'Dr Dugboyele would occasionally be tactile with me, for example hugging me. I cannot recall anything specific that he did with me, however I watched him with other XXX on a daily basis. I was one of the people Max was less tactile with. He did occasionally hug me and put his hands on me – his hugs always lasted a bit too long and his hands would reach too far, brushing parts of your body that you wouldn't want him to be touching. He would always do these things in public, in front of other staff members - it was like he was hiding in plain sight…

…there was an atmosphere of needing to keep Max 'on side'. Max was very moody – he was charming when he was in a good mood. He was never inappropriate in front of patients. He predominantly worked nights and as a XXX you are very reliant on the middle grade doctor on a night shift – you need to have a good relationship with the doctor on a night shift. If Max was in a good mood, he'd be very helpful and teach you things. If he was in a bad mood, he could be mocking and demeaning to staff.

I escalated concerns about that behaviour and subsequently spoke to him and explained that it was worrying and a potential safety issue if the staff couldn't approach him and he was contrite about that. It's hard to pin down what his behaviour was like other than that he could be rude; so people wanted to keep him in

a good mood. Often, I got the impression that if you went along with Max's tactile behaviour, it would keep him more on side…'

143. The Tribunal considered Dr Dugboyele's actions towards Ms D (paragraph 4 of the Allegation).

144. At the time of the events, Ms D was XXX. In her statement to the GMC, she described that:

'Dr Dugboyele could be a bit over-friendly, but that's just how he was. I thought it was a bit odd, but initially I didn't have any concerns.

The longer I worked there and got to know him, the more I noticed his unprofessional behaviour. It was always just small things that I didn't think was enough to report, for example if I was writing he would move my pen, or if I was walking up the corridor he would stand in my way, or block my way into the staff room by putting his arm across the door. Sometimes he would put his arm around my waist or rub shoulders with me. I just kind of accepted that's how it was because I thought that if I did say something, it could be perceived that I was making something out of nothing. Dr Dugboyele could also be quite moody and unpredictable which made him difficult to work with and I think this was another reason why a lot of people wouldn't say something to him when he was being touchy-feely, because they wanted to keep him on side…'

145. The Tribunal considered Dr Dugboyele's actions towards Ms E (paragraph 5 of the Allegation).

146. Ms E was a XXX at the Trust at the time of the events. In her witness statement to the GMC, she said;

'When I heard of the student XXX's complaint, I felt that enough was enough and it was time for me to raise my own concerns. I have put up with Dr Dugboyele's behaviour … and the hugging, touching and him brushing past us has become normal, like it is an accepted culture when working with Dr Dugboyele. However, when it happened to the student XXX in my care it was like a slap in the face for me to say that this sort of behaviour is not okay. The student was so upset when she told me and when she reported it that I felt terribly sad that it had happened to her. I felt that we could have protected her if Dr Dugboyele's behaviour had been taken seriously before…

It was really hard to report my concerns because Dr Dugboyele is such a good doctor and I've never seen him act in this way with a patient. I thought 'he's so good at his job I don't mind if he hugs me', however when I thought about it more, no other doctor hugs me all the time…'

147. The Tribunal reminded itself of the written evidence of Ms F and the oral evidence of Ms G which had been considered at the Determination of Facts stage. Both of these

complainants had experienced similar behaviours and expressed similar concerns as the other XXX. Ms F also described regularly being kissed/''*pecked*'' on the cheek by Dr Dugboyele. Ms G described an incident in January 2020 where she had been kissed on the side of the neck.

148. The Tribunal noted that Dr Dugboyele had been asked by some of the XXX to stop the behaviour, and also by a consultant, but he continued to act in the same overfamiliar and tactile way, over a significant period of time. Colleagues were made to feel that they had to 'put up' with it for the sake of the smooth running of the unit.

149. The Tribunal agreed with Ms Devans-Tamakloe's submission that paragraphs 36 and 65 of GMP are engaged in this case. The Tribunal also considered the following paragraphs of GMP to be engaged:

> *'Working collaboratively with colleagues*
>
> *35 You must work collaboratively with colleagues, respecting their skills and contribution*
>
> *37 You must be aware of how your behaviour may influence others within and outside the team'*

150. The Tribunal decided that Paragraphs 1- 11 demonstrated a course of conduct that had taken place over a long span of time. This conduct impacted a number of individuals, and the Doctor had been warned about his behaviour by a supervising consultant at the hospital both verbally and by email. The Tribunal decided that fellow practitioners would find this behaviour deplorable, and that it was a significant departure from GMP. The Tribunal found therefore that Paragraphs 1-11 constituted serious professional misconduct.

151. The Tribunal noted that the Doctor had admitted Paragraph 12. He had accepted that the behaviour as described in Paragraphs 1-11 had resulted in the fact that some of his colleagues did not feel able to challenge, report or prevent his behaviour. The Tribunal decided that this represented a significant departure from GMP and that Paragraph 12 constituted serious professional misconduct.

152. The Tribunal noted that the Doctor had admitted Paragraph 13. He had accepted that the behaviour as described in Paragraphs 1-11 was harassment. He accepted that it was unwanted conduct related to sex. This had the effect on his colleagues of violating the dignity of or creating an intimidating hostile degrading humiliating or offensive environment. The Tribunal decided that this represented a significant departure from GMP and that Paragraph 12 constituted serious professional misconduct.

153. The Tribunal was satisfied that Dr Dugboyele's conduct fell so far short of the standards expected so as to amount to serious professional misconduct.

Impairment

154. Having found that the paragraphs of the Allegation amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Dugboyele's fitness to practise is currently impaired.

155. The Tribunal considered that Dr Dugboyele had, through his behaviour at the Trust, brought the medical profession into disrepute and breached fundamental tenets of the profession.

156. In considering current impairment, the Tribunal considered whether Dr Dugboyele's misconduct is remediable, had been remediated and any likelihood of repetition.

157. The Tribunal was satisfied that Dr Dugboyele's misconduct is remediable.

158. In order to remediate, a doctor must first have insight. The Tribunal therefore considered Dr Dugboyele level of insight.

159. The Tribunal considered that Dr Dugboyele had demonstrated insight into his misconduct in several ways.

160. The Tribunal noted his letter of apology to his colleagues at the Trust, dated 28 April 2021, in which he stated:

> *'I have had the opportunity to reflect on my behaviour towards a number of my female colleagues at the Trust, which have led to a disciplinary investigation and, ultimately, to my resignation from the Trust.*
>
> *It is now clear to me that some of my behaviour demonstrated a lack of appropriate concern and respect for the dignity of my colleagues, was unacceptable and unwelcome, and has caused them significant and lasting distress. Whilst that was never my intention, I accept and understand that my actions were wrong. I have accept the conclusions of the Trust's disciplinary process and apologise unreservedly to those of my colleagues who have been affected by my behaviour.'*

161. Through Special Counsel, Mr Livesey, Dr Dugboyele also apologised to Ms G at the start of her evidence to the Tribunal.

162. The Tribunal considered that Dr Dugboyele had also demonstrated satisfactory insight into his actions in his written self-reflections after having attended the Professional Boundaries Course. He was able to analyse his learning from the course effectively and apply them to his own behaviour.

163. The Tribunal noted the efforts made by Dr Dugboyele to remediate his misconduct. He had attended appropriate courses in relation to professional boundaries and provided

reflections on them. The Tribunal noted his comments during the GMC investigation. He stated:

> *'I have however come to understand the mismatch of perceptions which commonly occurs when professional boundaries are breached and understand why my colleagues felt the way they did, and I understand the gravity of their allegations'*

164. The Tribunal noted the following list provided by Dr Dugboyele's Responsible Officer, Dr M, detailing the courses and reading that Dr Dugboyele had completed to address the concerns:

1) Review of the subject of harassment at the workplace on Google scholar. An article by John Launer titled 'Sexual harassment of women in medicine: a problem for men to address'
2) An online article titled 'A guide for individuals on avoiding and preventing sexual harassment' by the Quakers.
3) Personality assessment using the Myers-Briggs type indicator (MBTI).
4) Book titled 'Thinking, Fast and Slow' by Daniel Kahnemann.
5) Book titled 'The Chimp Paradox' by Prof Steve Peters.
6) XXX e-learning course titled 'Improving workplace behaviour'.
7) Professional Boundaries in Practice course (29/04/21)
8) GMC/MEDACS course: 'The Inspiring Leader' (12/06/2021)
9) GMC/MEDACS course: 'Beliefs, Boundaries and Professionalism webinar' (03/07/2021).
10) GMC/MEDACS course: 'Raising concerns – Leadership in Challenging times webinar (31/07/2021)

165. The Tribunal considered that Dr Dugboyele had satisfactorily applied his learning into his current practice and no new concerns of this nature have been raised regarding his behaviour. Two character references from his present hospital attest to this fact and, in particular, the Tribunal was reassured by the comments from his Responsible Officer, Dr M:

> *'[Dr Dugboyele] has become a valued member of the team. There have been no concerns regarding his conduct or capability. I have actively sought the opinions of senior medical and XXX colleagues who have confirmed that there have been no concerns about his behaviour or professional interactions.'*

166. The Tribunal also noted the positive comments in his colleague feedback. For example:

> *'Dr Dugboyele is a huge asset to the XXX Dept. He is well liked by patients and staff. He is always willing to offer assistance and is extremely approachable.*
> *He is a pleasure to work with.,*
>
> *Max is a very caring and compassionate doctors both with staff and patients and it's an absolute pleasure to work with.*

Max is very kind, gentle man and a skilled doctor, supportive and knowledgeable, a pleasure to work with.

Max is always polite and professional in his delivery of care to patients and staff.

It's the sign of competence I'm always very pleased to see if I'm on call with Max or he comes to clinic..'

167. The Tribunal considered that given Dr Dugboyele's satisfactory level of insight and remediation, and a period of time where this has been applied in practice with no concerns, the risk of repetition is low in this case. In the circumstances, the Tribunal considered that a finding of impairment by reason of misconduct was not necessary to uphold the overarching objective.

168. The Tribunal considered whether, even though the Doctor had remediated his behaviour, public confidence in the profession would be undermined were his fitness to practise found not to be impaired. The Tribunal was mindful that it had a duty to promote and maintain public confidence in the profession. The Tribunal recognised the serious impact that Dr Dugboyele's behaviour has had on a number of female colleagues. The Tribunal carefully balanced this with the remediation described above, the positive feedback from his present hospital, and the period of two years since the Allegation in which no similar concerns have been raised. The Tribunal concluded that, on balance, the public could feel confident that his behaviour has been addressed.

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

Determination on Warning - 17/05/2023

170. As the Tribunal determined that Dr Dugboyele's fitness to practise was not impaired it considered whether in accordance with s35D (3) of the 1983 Act, a warning was required.

Submissions

Submissions on behalf of the GMC

171. On behalf of the GMC, Ms Devans-Tamakloe submitted that a warning was required in this case.

172. Ms Devans-Tamakloe invited the Tribunal to consider paragraphs of the GMC Guidance on Warnings (March 2021) ('the Guidance'). She drew the Tribunal's attention to the following paragraphs of the Guidance:

11. Warnings allow the GMC and MPTS tribunals to indicate to a doctor that any given conduct, practice or behaviour represents a departure from the standards expected of members of the profession and should not be repeated. They are a formal response from the GMC and MPTS tribunals in the interests of maintaining good professional standards and public confidence in doctors. The recording of warnings allows the GMC to identify any repetition of the particular conduct, practice or behaviour and to take appropriate action in that event. Breach of a warning may be taken into account by a tribunal in relation to a future case against a doctor or may itself comprise misconduct serious enough to lead to a finding of impaired fitness to practise.

…

14 Warnings should be viewed as a deterrent. They are intended to remind the doctor that their conduct or behaviour fell significantly below the standard expected and that a repetition is likely to result in a finding of impaired fitness to practise. Warnings may also have the effect of highlighting to the wider profession that certain conduct or behaviour is unacceptable.

173. Ms Devans-Tamakloe also reminded the Tribunal of the test for issuing a warning, set out at paragraph 16 of the Guidance:

16 A warning will be appropriate if there is evidence to suggest that the practitioner's behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:

- *there has been a significant departure from Good medical practice…*

174. Ms Devans-Tamakloe reminded the Tribunal that in its determination on impairment (at paragraph 61), it had found that *"Dr Dugboyele's conduct fell so far short of the standards expected so as to amount to serious professional misconduct."*

175. Ms Devans-Tamakloe submitted that, notwithstanding the Tribunal's finding that the insight and remediation demonstrated by Dr Dugboyele means that repetition is unlikely, and that many of the factors at paragraph 32 of the Guidance go in Dr Dugboyele's favour, the allegations found proved relate to sexual harassment and an abuse of his professional position, which in the view of the GMC is very serious.

176. Ms Devans-Tamakloe submitted that Dr Dugboyele's conduct related to multiple colleagues over a significant period of time and could not be seen as an isolated incident. She submitted that were this behaviour to be repeated, it would likely result in a finding of impaired fitness to practise.

177. Ms Devans-Tamakloe submitted that applying the principle of proportionality and weighing the interests of the public with those of Dr Dugboyele, it would be proportionate to issue a warning.

Dr Dugboyele's submissions

178. Dr Dugboyele confirmed that he accepted the Tribunal's determination that his behaviour amounted to serious professional misconduct, and that his conduct fell short of the standard expected of him.

179. Dr Dugboyele pointed out that the Tribunal had noted his insight and efforts to remediate. He reminded the Tribunal that at paragraph 73 of its Determination on impairment it had stated that "*the Tribunal considered that Dr Dugboyele had satisfactorily applied his learning into his current practice and no new concerns of this nature have been raised regarding his behaviour.*" He also pointed out that the Tribunal had concluded at paragraph 76 of its Determination on impairment that, on balance, the public could feel confident that his behaviour has been addressed.

180. In summary, the Doctor submitted that, given his level of insight, his apology, understanding of his behaviour, and his demonstration of compliance, he did not think a warning is required.

181. However, Dr Dugboyele submitted that if the Tribunal did consider that a warning were required, he would not object to it.

The LQC's advice

182. The LQC advised that, as the Tribunal had found that the Doctor's current fitness to practise was not impaired, then a sanction could not be imposed.

183. The Tribunal must now consider whether to take no action or issue a warning. The Tribunal may consider a warning if it decides that the Doctor's conduct or behaviour has significantly departed from the guidance in GMP.

184. This decision is for the Tribunal alone, and there is no legal definition of the word significant. When considering this, the Tribunal should have regards to the facts proved and the matters admitted.

185. The LQC referred the Tribunal to paragraph 61-65 of the Sanctions Guidance, and the Guidance on Warnings (March 2021) which sets out a range of factors which the Tribunal should take into account in its decision making.

186. The Tribunal must apply the principle of proportionality; balancing the doctor's interests with the public interest.

187. The Tribunal must also consider any relevant mitigating and aggravating factors and address them within the context of the determination.

188. When considering whether to issue a warning, or take no action, the Tribunal must again have particular regard to the statutory overarching objective:

1. To protect, promote and maintain the health, safety and wellbeing of the public;
2. To promote and maintain public confidence in the medical profession; and
3. To promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Warning

189. Throughout its consideration, the Tribunal was mindful to have regard to the statutory overarching objective and that its power to issue a warning was central to its role in protecting the public, which includes maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

190. The Tribunal had regard to paragraph 61 of the SG which provides that:

61 Where a tribunal finds a doctor's fitness to practise is not impaired, it cannot impose a sanction. However, it must consider, under rule 17(2)(n) whether to:

a take no action
b issue a warning if the doctor's conduct, behaviour or performance has significantly departed from the guidance in Good medical practice.

191. The Tribunal reminded itself of its finding that Dr Dugboyele's behaviour breached the following paragraphs of GMP:

'35 You must work collaboratively with colleagues, respecting their skills and contribution

36 You must treat colleagues fairly and with respect.

37 You must be aware of how your behaviour may influence others within and outside the team

65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession'

192. The Tribunal noted that four paragraphs of GMP had been breached. It reminded itself that the Allegation spans a number of years and describes a persistent course of conduct involving seven of his female work colleagues. In these circumstances, the Tribunal was satisfied that Dr Dugboyele had significantly departed from GMP.

193. The Tribunal was mindful of the purpose of warnings as set at paragraph 10 of the Guidance:

10 The power to issue warnings, together with other powers available to the GMC and to MPTS tribunals, is central to their role of protecting the public which includes protecting patients, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

194. The Tribunal had regard to the factors to consider outlined at paragraph 20 of the Guidance:

20 The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.

a There has been a clear and specific breach of Good medical practice or our supplementary guidance.

b The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor's fitness to practise has not been found to be impaired.

c A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation… the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.

d There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition).

195. The Tribunal determined that all these factors were engaged. The Tribunal had found that Dr Dugboyele had breached GMP, and his actions had amounted to serious professional misconduct. Although the Tribunal had decided that his fitness to practise was not currently impaired, it noted that if there were a repetition this would be likely to result in a finding of impaired fitness to practise. The Tribunal was particularly mindful of the adverse personal impact Dr Dugboyele's misconduct had on his work colleagues, and also the adverse impact it had on the functioning of the clinical team in which he held a leadership role and a position of trust. A repetition could have a similar impact on individuals or a team in the future. This could affect the reputation of the profession and undermine public confidence.

196. The Tribunal also had regard to the principle of proportionality and carefully balanced Dr Dugboyele's interests with the public interest in determining whether to issue a warning.

It bore in mind the seriousness of the departures from GMP and the consequences that would follow if there were a repetition of such behaviour. The Tribunal determined that the public interest in issue a warning in this case outweighed Dr Dugboyele's interests in there not being a warning issued.

197. The Tribunal bore in mind the factors to consider outlined at paragraph 32 of the Guidance:

> *32 If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:*
>
> *a the level of insight into the failings*
>
> *b a genuine expression of regret/apology*
>
> *c previous good history*
>
> *d whether the incident was isolated or whether there has been any repetition*
>
> *e any indicators as to the likelihood of the concerns being repeated*
>
> *f any rehabilitative/corrective steps taken*
>
> *g relevant and appropriate references and testimonials.*

198. The Tribunal considered that most of these factors go in Dr Dugboyele's favour. The Tribunal had considered such factors at the impairment stage and after careful consideration, determined that his fitness to practise was not impaired. However, it noted that this conduct did not represent an isolated incident. It had taken place over a long period of time and was persistent. He had been warned about the behaviour by the supervising consultant, Dr I. The Tribunal considered that at this stage, these mitigating factors do not outweigh the seriousness of the misconduct found.

199. The Tribunal bore in mind that a warning has a deterrent effect and was satisfied that it was appropriate in the case. A warning would serve to remind Dr Dugboyele that his behaviour fell significantly below the standard expected and that a repetition is likely to result in a finding of impaired fitness to practise. A warning would also recognise the impact of Dr Dugboyele's behaviour on specific individuals and the clinical team, as well as emphasising to the wider profession that sexual harassment is wholly unacceptable.

200. Accordingly, the Tribunal determined to issue a warning on Dr Dugboyele's registration. It considered that a warning was necessary to uphold the overarching objective, and that public confidence in the profession would be damaged if a warning were not given.

201. The Tribunal therefore determined to issue the following warning on Dr Dugboyele's registration:

'Dr Dugboyele

On a number of occasions between 2016 and 2020 you behaved inappropriately at work towards seven female colleagues. You abused your professional position and your actions amounted to sexual harassment.

This behaviour does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The behaviour breached required standards as set out in Good medical practice.

The following paragraphs of *Good medical practice* are especially relevant:

'35 You must work collaboratively with colleagues, respecting their skills and contribution

36 You must treat colleagues fairly and with respect.

37 You must be aware of how your behaviour may influence others within and outside the team

65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession'

The Tribunal found that these failings were serious, but that your current fitness to practise was not impaired. It does not therefore require any restriction on your registration, but finds it necessary and proportionate to issue this formal warning.

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

202. The Interim Order of conditions is hereby revoked.

203. This concludes the case.