

PUBLIC RECORD

Dates: 22/05/2023 - 25/05/2023

Medical Practitioner's name: Dr Mohamed SEEDAT
GMC reference number: 7528868
Primary medical qualification: MBBS 2016 Queen Mary University of London

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

Summary of outcome
Suspension, 1 month.

Tribunal:

Legally Qualified Chair	Mr Angus Macpherson
Lay Tribunal Member:	Mr Peter Scofield
Medical Tribunal Member:	Dr Edward Doyle
Tribunal Clerk:	Mx Nate Caruso-Kelly

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Susannah Stevens, Counsel, instructed by the MDU
GMC Representative:	Ms Kathryn Johnson, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 25/05/2023

1. This determination will be handed down in private. However, as this case concerns Dr Seedat's misconduct, a redacted version will be published at the close of the hearing.

FACTS

Background

2. Dr Seedat qualified in 2016 at Queen Mary University of London. Prior to this, Dr Seedat had graduated with a BSc in Biomedical Science from King's College London in 2011. Dr Seedat has held full registration with the GMC since August 2017. After undertaking his postgraduate Foundation Year 1 and 2 training years in London, Dr Seedat took up a place on the General Practitioner (GP) vocational training scheme in Wales and completed his Certificate of Completion of Training in General Practice in September 2021. Dr Seedat's final year of training to become a GP was at the Ely Bridge Surgery, Cardiff, between September 2020 and September 2021. In respect of the events in question, Dr Seedat took up a salaried GP post on 2 November 2021 at XXX ('the Practice').

3. The allegations that have led to Dr Seedat's hearing relate to his conduct in respect of Ms A, a colleague XXX at the Practice. The allegations relate to a conversation between Ms A and Dr Seedat on 4 November 2021 at the Practice. It is alleged by the General Medical Council (GMC) that Dr Seedat's conduct was sexually motivated and amounted to sexual harassment. This includes allegations that Dr Seedat had asked Ms A whether she "*had ever had sex in the workplace*", that he started stroking her calf with his shoe and that he asked her to come to his room when everyone had left the Practice for the day.

4. Ms A stated that, after Dr Seedat left the room following the conversation, she sent a message to a colleague, Mr B, who had been present at the Practice earlier in the day. After leaving the Practice at the end of the day, Ms A messaged her manager, Mr C, and subsequently spoke to him at around 8.30pm that evening. Ms A then received a call from the regional manager, Ms D, who asked her to put what had happened in writing. Ms A stated that she sent an email with her statement that evening.

5. Ms A stated that she was next approached about the incident when she was asked to give an interview about what had happened to Ms E, Human Resources, and Ms F, regional manager in a different borough. The interview took place on 8 November 2021.

6. The initial concerns were raised with the GMC on 29 December 2021 by Dr G, Responsible Officer at XXX Health (Group) Limited, following the outcome of a disciplinary hearing that had been held on 19 November 2021. Dr G stated that they had written to Dr Seedat to inform him that his employment had been terminated on the grounds of gross misconduct.

7. Dr Seedat was suspended from the NHS Medical Performers List on 24 December 2021. This decision was reviewed and continued in April 2022. Dr Seedat was, at that time, working at an acute trust and that role fell outside the Performers List remit. The suspension was reviewed and his inclusion on the Performers List made subject to conditions. Dr Seedat had not returned to GP practice and, since Spring 2021, has been working at Darent Valley Hospital as a locum Registrar in the Emergency Department. Dr Seedat stated that, ultimately, he did wish to take up a salaried post again as a GP.

The Admitted Facts

8. At the outset of these proceedings, through his counsel, Ms Stevens, Dr Seedat made admissions to all of the paragraphs of the Allegation, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Allegation and the Doctor's Response

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

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

1. On 4 November 2021, whilst working at XXX ('the Practice') you:
 - a. asked Ms A, whether XXX, or words to that effect;
Admitted and found proved
 - b. said to Ms A 'if you were in my room blindfolded and I was behind you kissing your neck and I slowly started to put my hand down your front, you'd be thinking about it, XXX or words to that effect;
Admitted and found proved
 - c. said to Ms A that you were 'going to be crude right now', or words to that effect, and told her in graphic detail about a sexual experience you had had XXX;
Admitted and found proved

d. asked Ms A whether she ‘had ever had sex in the workplace’, or words to that effect;

Admitted and found proved

e. asked Ms A whether she ‘had ever been horny in the workplace’, or words to that effect;

Admitted and found proved

f. spoke to Ms A about ‘relieving’ herself’, or words to that effect;

Admitted and found proved

g. spoke to Ms A about her having sex XXX, or words to that effect;

Admitted and found proved

h. told Ms A that she should come to your room at 18:30 when everyone had left the Practice and you would ‘try it out’, or words to that effect;

Admitted and found proved

i. reached out your leg and started stroking Ms A’s calf with your shoe;

Admitted and found proved

j. asked Ms A how she would feel if a patient came in and you were undertaking the action at paragraph 1.i, or words to that effect;

Admitted and found proved

k. stated that Ms A ‘would get butterflies’, when she replied saying she didn’t know to your question at paragraph 1.j, or words to that effect;

Admitted and found proved

l. put your hand on Ms A’s shoulder as you were leaving the room and asked her to come to your room to see what you were talking about, or words to that effect.

Admitted and found proved

2. Your conduct as described at paragraph 1 a-l:

a. was sexually motivated;

Admitted and found proved

b. amounted to sexual harassment by virtue of Section 26 of the Equality Act 2010, in that you engaged in unwanted conduct related to sex and XXX which had the purpose or effect of violating Ms A’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms A.

Admitted and found proved

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

To be determined

IMPAIRMENT

10. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Seedat's fitness to practise is impaired by reason of misconduct.

The Outcome of Applications made during the Impairment Stage

11. The Tribunal granted Dr Seedat's application, made pursuant to Rule 41 of the Rules, that parts of his oral evidence be heard in private session. On behalf of Dr Seedat, Ms Stevens submitted that some of the matters she intended to raise with Dr Seedat related to XXX, and therefore should be heard in private to protect his privacy. Ms Stevens further submitted that she intended to ask questions about XXX. Ms Stevens finally submitted that efforts would be made to ensure as much evidence as possible was heard in public session to serve the public interest.

12. The Tribunal, under Rule 41 (2) of the Rules, determined that issues relating to XXX. Further, the Tribunal determined that XXX. Further, the Tribunal determined that the elements to be heard in private are not directly related to the Allegation and simply provide circumstantial context.

The Evidence

Witness Evidence

13. The Tribunal received evidence on behalf of the GMC in the form of a witness statement from Ms A. Her statement was dated 8 March 2022. Her evidence was agreed, and she was not called to give oral evidence.

14. Dr Seedat provided his own witness statements dated 26 January 2023, 6 March 2023, and 29 March 2023 and also gave oral evidence at the hearing.

15. Within Dr Seedat's witness statements, he stated that he admitted unreservedly that his behaviour towards Ms A, as set out at paragraph 1 of the Allegation, was wholly inappropriate. He referred to his letter of apology to Ms A dated 19 November 2021. He spoke about the personal circumstances he was experiencing at the time of the events in question and how he had explored and reflected upon his behaviour. Dr Seedat stated that he engaged in XXX.

16. Dr Seedat referred to the online learning he had undertaken in respect of sexual harassment, professional boundaries, consent, communication and professionalism. He also referred to his attendance on a three day Maintaining Professional Boundaries course in February 2022 and a talk that he gave to colleagues on 29 December 2022 relating to professional boundaries with specific reference to his own experience. Dr Seedat stated that he had tried his utmost to learn, remediate and change. He stated that he still felt overwhelming guilt for how badly he had behaved on that day and he could not forgive himself for having caused distress to a colleague, for having breached her trust and the trust of his other colleagues. He stated that he could not forgive himself for letting the profession down and for not upholding the values of a doctor in the eyes of the public.

17. In his oral evidence, Dr Seedat set out his experience and training leading up to November 2021. Dr Seedat set out the context to the incident: XXX.

18. Dr Seedat further stated that on the day of the incident, he was beginning his first job as a fully qualified GP, which he felt was *'daunting'*. Dr Seedat stated that the conversation with his colleagues was on a *'slippery slope'* and became increasingly personal and inappropriate as the day progressed. Dr Seedat further explained that he made sexual comments to be *'cool'* and *'fun'*, and that he wanted to be liked and accepted.

19. Dr Seedat went on to describe the incident itself and stated that he was not aware of how uncomfortable he was making Ms A feel, and did not, at the time, appreciate the power differential between himself and Ms A which meant that his asking her if she wanted him to continue held *'zero value'*. Dr Seedat explained that following his being contacted by the Regional Manager of the XXX Health Group and its Human Resources Department, he XXX and opened up to his family about XXX. Dr Seedat explained his need to be a *'provider and support and pillar'* and how this contributed to feelings of low self-confidence and self-worth at the time.

20. Dr Seedat explained that he now seeks regular advice from family, colleagues, and XXX. Dr Seedat said that self-disclosure - telling his colleagues extremely personal things - was a large part of what went wrong, and he has attempted to address this by engaging with his wider support network.

21. In addition, the Tribunal heard oral evidence from the following witness on Dr Seedat's behalf:

- Dr I, Lead GP at the Urgent Treatment Centre at Darent Valley Hospital, by video link. He stated that he had no concerns about Dr Seedat's behaviour in the workplace, including his behaviour towards female colleagues and patients, and that Dr Seedat is a talented clinician whom he considers to be a valuable member of the team.

Documentary Evidence

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

- Email dated 5 November 2021 from Ms A to the Regional Manager outlining events of the previous day;
- Screenshots of WhatsApp messages between Ms A and Mr B dated 4 November 2021;
- Transcript of Ms A's interview for the XXX Health (Group) Limited Disciplinary Investigation dated 8 November 2021;
- Email from Dr Seedat dated 19 November 2021 including a letter of apology to Ms A;
- Slides of a talk Dr Seedat gave to colleagues on 29 December 2022 relating to professional boundaries;
- Dr Seedat's further reflections submitted to NHS England dated 1 June 2022;
- Dr Seedat's updated Development and Restoration Plan dated 13 January 2023;
- Dr Seedat's certificate dated 20 February 2023 on completion of a course on XXX: Diversity and Inclusion in the Workplace;
- Documentation in respect of the local investigation and disciplinary hearing conducted by XXX Health (Group) Limited;
- Testimonials from various professional colleagues of Dr Seedat dated between April and May 2023 including from a female Health Care Assistant.

Submissions

23. On behalf of the GMC, Ms Johnson, Counsel, submitted that Dr Seedat's fitness to practise is impaired by reason of his misconduct. Ms Johnson submitted that Dr Seedat had breached fundamental tenets of the medical profession, as set out in paragraphs 36, 37, and 65 of Good Medical Practice (2013, as amended) ('GMP'). Ms Johnson reminded the Tribunal that Dr Seedat has admitted that his behaviour was sexually motivated and amounted to sexual harassment. Ms Johnson submitted that Dr Seedat's behaviour is aggravated by the difference in seniority between Dr Seedat and Ms A, and that the conversation lasted for a significant period of time, showing a sustained course of conduct or conduct which was repeated over a period of time.

24. Ms Johnson submitted that the account provided by Ms A demonstrated the impact of sexual harassment in the workplace and should be viewed as serious misconduct. Dr Seedat's behaviour not only impacted upon Ms A but other members of the team, and therefore undermined the trust work colleagues have in each other and the effectiveness of the team.

25. Ms Johnson further submitted that the fact that Dr Seedat made targeted sexual comments to Ms A, XXX, is an aggravating factor, in that the sexual comments were made because of XXX.

26. Ms Johnson accepted that Dr Seedat has shown insight and taken steps to remediate his misconduct, however she reminded the Tribunal of the principle set out in *Yeong v GMC* [2009] EWHC 1923 (Admin), namely that where a FTPP considers that fitness to practise is impaired for such reasons (maintaining public confidence in the profession), and that a firm declaration of professional standards so as to promote public confidence in that medical practitioner and the profession generally is required, the efforts made by the practitioner to address his problems and to reduce the risk of recurrence of such misconduct in the future may be of far less significance than in other cases, such as those involving clinical errors or incompetence.

27. Finally, Ms Johnson submitted that although Dr Seedat was a newly qualified GP, he was in his 30s and had gone through many years of medical training, it was, therefore, concerning that he felt he had to mature. She submitted that behaviour of this nature demonstrates attitudinal issues which are difficult to remediate and that, therefore, there is a risk of repetition of the behaviour.

28. On behalf of Dr Seedat, Ms Stevens, Counsel, submitted that Dr Seedat concedes his fitness to practise is impaired by reason of his misconduct, and further that Dr Seedat accepts that his actions have damaged public confidence in the profession. She did, however, submit that Dr Seedat does not have any attitudinal problems, and that there was no evidence before the Tribunal to support the contention that there was a risk of repetition.

The Relevant Legal Principles

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

30. The LQC advised the Tribunal of the two-stage process to be adopted when considering the issue of impairment: first whether the facts as found proved amounted to misconduct and then whether the finding of that misconduct, which was serious, could lead to a finding of impairment.

31. The LQC highlighted the case of *Roylance v GMC (no2)* (2000) 1 AC 311 in which 'misconduct' was defined as 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*'. In the case *Nandi v GMC* [2004] EWHC 2317 (Admin), it was said that serious misconduct is sometimes described as misconduct which would be considered deplorable by fellow practitioners.

32. The LQC also drew the Tribunal's attention to *Cohen v GMC* (2008) EWHC 581 in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner's misconduct and then consider it in light of all the other relevant factors known

to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner’s misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

33. The LQC further referred the Tribunal to the principle set out in *Cheatle v GMC* [2009] EWHC 645 (Admin): *‘The doctor’s misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe at all. On the other hand, the doctor’s misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practise Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct.’*

34. The LQC drew the Tribunal’s attention to the case of *Yeong v GMC* [2009] EWHC 1923 (Admin), which states that *‘where a FTTP considers that fitness to practise is impaired for such reasons, and that a firm declaration of professional standards so as to promote public confidence in that medical practitioner and the profession generally is required, the efforts made by the practitioner to address his problems and to reduce the risk of recurrence of such misconduct in the future may be of far less significance than in other cases, such as those involving clinical errors or incompetence’*.

35. The LQC referred the Tribunal to the test propounded by Dame Janet Smith in respect of impairment to which Mrs Justice Cox referred in the case of *CHRE v NMC and Grant* [2011] EWHC 927 (Admin) (*‘Grant’*):

‘a) Whether the registrant has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;

b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;

c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession. ... ’

36. The LQC reminded the Tribunal of the statutory overarching objective which is 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.

The Tribunal’s Determination on Impairment

Misconduct

37. The Tribunal first considered whether Dr Seedat’s actions amount to misconduct.

38. The Tribunal considered that Dr Seedat had failed to adhere to the following paragraphs of GMP:

'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.'

39. In relation to paragraph 65 of GMP the Tribunal noted that it appeared under the heading 'Honesty and Integrity'. However, it accepted Ms Johnson's submission that this was a principle which was transferrable to all areas of a doctor's practice.

40. When considering the seriousness of the misconduct, the Tribunal had regard to the fact that Dr Seedat has accepted that the misconduct was sexually motivated and amounted to sexual harassment by virtue of the Equality Act 2010. The Tribunal found that sexual harassment of this kind must amount to serious misconduct.

41. Further, the Tribunal considered that XXX significantly increased the seriousness of the misconduct, because XXX.

42. The Tribunal took into account that at the time Dr Seedat was a fully qualified GP, and Ms A was a XXX. The Tribunal accepted that there was an inherent power differential but did not consider this to be a significant factor in the seriousness of the offence; Dr Seedat was not Ms A's employer or direct supervisor.

43. The Tribunal considered the context of Dr Seedat's XXX situation at the time. The Tribunal accepted that Dr Seedat was XXX, and that this was causing him great distress. However, the Tribunal determined that the context of Dr Seedat's personal life did not negate the seriousness of his behaviour. The Tribunal further bore in mind that at the time of the incident, Dr Seedat was, or should have been, aware of the proper standards of behaviour expected in the workplace.

44. Therefore, the Tribunal found that the misconduct, which has been admitted and found proved, is serious misconduct, on the basis that such sexual harassment is unacceptable, and in that the facts of this case were made more serious in the context of Ms A's protected characteristic and by reason that the motivation was sexual.

45. The Tribunal has concluded that Dr Seedat's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Impairment by reason of misconduct

46. The Tribunal, having found that the facts found proved amounted to misconduct, went on to consider whether Dr Seedat's fitness to practise is currently impaired by reason of his misconduct.

47. The Tribunal considered that Dr Seedat has shown considerable insight from an early stage. The Tribunal took into account the apology which Dr Seedat wrote to Ms A, shortly after the incident, on 19 November 2021:

'I know much of these are just words and cannot undo what I have done. But I would like to stress how wholeheartedly sorry I am for what I did. I have pledged to addressing self-improvement and learning so that nothing like this ever happens again. I hope this letter can hopefully be the start of you being able to move on from this.'

48. The Tribunal further took into account that Dr Seedat engaged openly and honestly with the Trust investigation, and subsequently in his restoration application to the NHS Performers List in June 2022. The Tribunal considered the reflective statement that Dr Seedat produced for those proceedings, which sets out, in detail, his efforts to be restored to the Performers List:

'I have now been working on my development and restoration plan consistently and in a structured way for 3 months now. I have intensively engaged in this and have remained accountable to the people named in my plan to ensure I am able to make lasting changes for the better.'

49. The Tribunal found that Dr Seedat's reflective statement prepared for these proceedings showed that he has well developed insight into his actions:

'I wish almost daily there was a way for me to truly express how sorry I am and for a way to fix what I did to my colleague. Whilst these things may not be possible, I can keep making amends going forwards. I can keep ensuring that I never let anything like that happen again. I can help prevent others making the same mistakes I did. I can work hard to earn the trust of my colleagues, my patients, and the public.'

50. The Tribunal considered the training courses which Dr Seedat has undertaken, and found that these were appropriate to the circumstances of the incident, and further that Dr Seedat has delivered significant and detailed reflections on each of the courses:

'XXX: Diversity and Inclusion in the Workplace, XXX February 2023:XXX. In future, hopefully this can facilitate me creating a more inclusive and diverse environment around me that can be more welcoming for all. I very much feel I can contribute to creating an inclusive work environment, promote diversity in leadership, as well as provide support and education to my colleagues. This will ensure I help contribute to ensuring everyone is treated with respect and dignity.'

Maintaining Professional Boundaries, February 2022: Something I reflected a lot on was the fact that as doctors we are always in a position of relative power with both patients and colleagues. We are natural leaders in our field, we deal with vulnerable people, we are looked to for support and supervision and as a result we are held to a very high standard. This mindset allowed me to embrace my role as a doctor better. I was very conscious of what I would share about myself and as a result I felt in much more control of my own professional boundaries.'

51. The Tribunal further considered the Development and Restoration plan which Dr Seedat prepared in preparation for his restoration to the Performers List, which he has since updated, and found that this was a well-structured and detailed plan. It included plans for further training and reflection, and strategies to avoid isolation and to manage XXX.

52. Finally, the Tribunal took into account Dr Seedat's XXX.

53. Taking into account the significant remediation and well-developed insight shown by Dr Seedat, the Tribunal concluded that it is highly unlikely that Dr Seedat will repeat this behaviour in the future. The Tribunal further considered that Dr Seedat has worked in his current position since 2021 and there is no evidence that the behaviour has been repeated, as shown by the oral evidence of Dr I and positive written testimonials from a range of professional colleagues.

54. The Tribunal then turned to the factors set out in *Grant*. The Tribunal found no evidence that there have been any concerns in regard to Dr Seedat's clinical performance, and therefore considered that Dr Seedat has not and is not liable in the future to put patients at risk of harm. The Tribunal further considered that while Dr Seedat has in the past undoubtedly brought the profession into disrepute and breached a fundamental tenet of the medical profession, the risk of this behaviour being repeated is very low and therefore it is unlikely that he will do so in the future.

55. Notwithstanding the significant insight and extensive remediation that Dr Seedat has undertaken, the Tribunal considered whether a finding of impairment was necessary to uphold the overarching objective. The Tribunal found that the seriousness of the sexual harassment, being sexually motivated and related to a protected characteristic which Ms A possessed, unless marked by a finding of impairment, would clearly undermine the need 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.

56. Taking all the above into account, the Tribunal determined that Dr Seedat's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 25/05/2023

57. Having determined that Dr Seedat's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Fitness to Practise Rules (2004), as amended ('the Rules') on the appropriate sanction, if any, to impose.

The Evidence

58. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

59. On behalf of the GMC, Ms Johnson submitted that suspension is the appropriate sanction in this case. Ms Johnson submitted that the following mitigating factors are present: Dr Seedat has no disciplinary history; he is held in high regard by his colleagues; there has been no repetition of the misconduct since the day in question; he has demonstrated insight and remediation; he immediately accepted responsibility for his actions and apologised to Ms A; he has sought to remediate by attending various courses and providing reflections; he has submitted a number of reflective statements; he has taught medical students in relation to his experience and subsequent learning.

60. Ms Johnson submitted that the following aggravating factors are present: there was a disparity in seniority between Ms A and Dr Seedat; Dr Seedat's behaviour had a significant impact on Ms A and left her feeling very uncomfortable and unable to complete her duties; the misconduct occurred during the course of the day and Dr Seedat returned a number of times to continue the sexualised conversation, and to that extent the misconduct was sustained; Dr Seedat made inappropriate comments and went on to touch Ms A, which he has admitted was sexually motivated; XXX.

61. Ms Johnson submitted that there is no reason in this case to take no action, and further that conditions would not be appropriate as the usual factors – health, knowledge of English, or poor performance – do not apply. Further, that the misconduct is too serious for conditions to be appropriate or workable.

62. Ms Johnson submitted that although the misconduct in this case was very serious, it fell short of being fundamentally incompatible with continued registration. She accepted that Dr Seedat has demonstrated insight and significant remediation. Ms Johnson submitted that, in consequence, suspension is the appropriate sanction in this case. In relation to the factors set out at paragraph 97 of The Sanctions Guidance (2020) ('SG'), Ms Johnson submitted that the Tribunal should take into account that complete removal from the register would not be in the public interest, given that Dr Seedat has shown significant insight, and there is a low risk of repetition.

63. In relation to the length of any suspension to be imposed, Ms Johnson submitted that a lengthy suspension would be appropriate, taking into account all the circumstances of the case and the mitigating and aggravating factors. Ms Johnson further submitted that the

Tribunal should take into account the serious departures from GMP; that Dr Seedat's actions undermined public confidence in the profession; that Dr Seedat's inappropriate behaviour was particularly serious. Balanced against that, Ms Johnson conceded that the Tribunal should also take into account the subsequent investigations and the extent to which Dr Seedat has complied, and that Dr Seedat has accepted responsibility for his actions. Ms Johnson submitted that a lengthy period of suspension would reflect the seriousness of the misconduct, maintain proper standards of behaviour for those in the profession and maintain public confidence in the profession.

64. Finally, Ms Johnson turned to the authorities. Ms Johnson drew the Tribunal's attention to the case of *Yasin v GMC* [2018] EWHC 677 (Admin) ('*Yasin*'), although she conceded that the facts in *Yasin* were of a more serious nature than those in this case:

'It is possible that this sort of low level sexual assault is now regarded more seriously than it once was particularly when committed in a work environment. It would be hard to argue that that is a bad thing.'

65. Ms Johnson submitted that the Tribunal should bear in mind that the misconduct was aggravated by XXX, and that Dr Seedat made XXX. Ms Johnson submitted that an order of suspension is necessary to maintain standards of behaviour and public confidence, to send a signal to those in the profession who minimise behaviour of this nature as banter, and who fail to appreciate the serious impact this behaviour has on their victims. Ms Johnson submitted that an order of suspension would dissuade those who hold entrenched attitudes to act upon them, and public confidence will be maintained as a result. Ms Johnson submitted that low level behaviour of this nature can be a precursor to more serious offending in the future.

66. On behalf of Dr Seedat, Ms Stevens submitted that this is not a case where public protection is an issue and reminded the Tribunal of its finding that it is highly unlikely that Dr Seedat will repeat this behaviour or place patients at risk of harm. With regard to maintaining public confidence in the profession, Ms Stevens submitted that the case law is clear that one must appreciate how serious sexual banter is and attempt to dissuade others. In addition, she submitted that authorities make it clear that a GMC investigation is, in and of itself, a deterrent, that it is highly unlikely that today a medical practitioner would not know that sexual banter is going to be treated seriously and is going to lead to a GMC investigation. Ms Stevens submitted that in this case it has gone further than a GMC investigation; allegations have been admitted and found proved, and a finding of impairment has been made. Ms Stevens submitted that a finding of impairment sends a very strong signal and shows that the Tribunal has already marked this conduct out as being unacceptable. Ms Stevens reminded the Tribunal that this stage of the proceedings is not about punishment or discipline and the Tribunal should take into account the impact on Dr Seedat.

67. Ms Stevens further submitted that there is a public interest in enabling clinically excellent doctors to remain in practice. She reminded the Tribunal of the pressures facing the healthcare system in the current climate. Ms Stevens submitted that Dr Seedat has shown

through testimonial evidence and the oral evidence of Dr I that he is a skilled doctor. She submitted that there is a public interest in ensuring the sanction imposed is proportionate and commensurate. Ms Stevens submitted that the Tribunal should ensure that the desire to send a signal to the profession does not lead to a sanction which goes beyond one that relates to the facts of this offence, in terms of the misconduct and all the circumstances surrounding it.

68. Ms Stevens drew the Tribunal's attention to potentially relevant authorities. She submitted that the case of *Khan v General Pharmaceutical Council* [2016] UKSC 64 demonstrated that even the very serious misconduct in the case of *Khan* was not considered suitable for erasure. Ms Stevens then turned to the case of *PSA v HCPC and Benedict Doree* [2015] EWHC 822 (Admin) and asked the Tribunal to take into account that this case resulted in a caution order, despite the misconduct being more serious and of a more physical nature than the misconduct in this case. Ms Stevens submitted that the case of *Yasin* is not relevant to the Tribunal's consideration, as the facts were far more serious than the facts in this case and involved repeated touching and exposure of genitals.

69. Finally, Ms Stevens turned to the recent case of *GMC v Ahmed* [2022] WEHC 403 (Admin) ('*Ahmed*'). Ms Stevens set out the facts of the case: Dr Ahmed pursued two patients, one being 14 years old, for sexual relationships over a course of several days, and did not accept responsibility for his actions nor take any remedial steps. Ms Stevens submitted that the case of *Ahmed* can be distinguished from the facts of this case as Dr Seedat has no ongoing attitudinal problems, has not shown a pattern of behaviour, has not engaged in an inappropriate physical relationship, appreciates the seriousness of his misconduct, and did not pursue a vulnerable person or a minor. Ms Stevens submitted that although the facts in *Ahmed* were more serious than those in this case, the High Court considered that it was appropriate for the Tribunal in *Ahmed* not to order a review, having had proper regard for the SG and giving sufficient reasons for departing from it.

70. Ms Stevens submitted that the Tribunal should consider the facts of the misconduct: it was a one off matter; it was limited to one day; the comments were made to an adult who was not vulnerable; no patients were present or affected; Dr Seedat had an exceptionally good character; the incident was entirely out of character; Dr Seedat was under great stress at the time; Dr Seedat is deeply remorseful. Ms Stevens submitted that there is a public interest in ensuring that an excellent doctor can continue with his career and keep positive about his future. Ms Stevens conceded that the misconduct was deplorable and unacceptable, and submitted that the Tribunal has marked this with its impairment decision. Ms Stevens submitted that the length of any sanction should not be greater than that which is warranted by the circumstances.

The Tribunal's Determination on Sanction

71. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the overarching objective.

72. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Seedat's interests with the public interest.

73. The Tribunal has already set out its decision on facts and impairment which it took into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Seedat's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

Aggravating and mitigating factors

74. The Tribunal identified the following aggravating factors in this case:

- XXX;
- The misconduct was sustained over the period of a day;
- Ms A was intimidated, and Dr Seedat's behaviour had a significant effect on her ability to complete her duties;
- The difference in seniority between Ms A XXX, and Dr Seedat.

75. The Tribunal identified the following mitigating factors in this case:

- Dr Seedat is of good character and has no fitness to practise history;
- Dr Seedat made a written apology to Ms A and has shown deep remorse;
- Dr Seedat has shown evidence that he understands the problem and that he has insight into his misconduct;
- Dr Seedat has undertaken impressive and sustained remediation, involving significant reflection;
- At the time of events, Dr Seedat was under great stress in his personal life;
- Dr Seedat addressed the problem swiftly after the initial complaint was raised;
- Dr Seedat has been in continuous practice since December 2021 with no evidence that the misconduct has been repeated;
- Dr Seedat has cooperated fully with all investigations, including the Practice, the NHS Performers List, and these proceedings;
- During the initial investigation, Dr Seedat was open and honest, even volunteering additional information to the investigators.

No action

76. The Tribunal first considered whether to conclude the case by taking no action. It accepted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal bore in mind the extent to which Dr Seedat has remediated and shown insight into his misconduct, however it determined

that, given the seriousness of Dr Seedat’s misconduct, to take no action would be inappropriate and would undermine public confidence in the profession.

Conditions

77. The Tribunal next considered whether to impose conditions on Dr Seedat’s registration. As set out in paragraph 81 of the SG, conditions can be appropriate and workable in certain circumstances:

‘81 Conditions might be most appropriate in cases:

a involving the doctor’s health

b involving issues around the doctor’s performance

c where there is evidence of shortcomings in a specific area or areas of the doctor’s practice

d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.’

78. However, as this case relates to misconduct which was not related to any of the circumstances set out at paragraph 81, the Tribunal concluded that conditions would neither be workable nor measurable.

Suspension

79. The Tribunal went on to consider whether to impose a period of suspension on Dr Seedat’s registration. The Tribunal considered that, taking into account the seriousness of Dr Seedat’s misconduct, the following paragraphs of the SG are relevant:

‘91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. ...

‘92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration’

80. Further, the Tribunal has found that Dr Seedat has shown significant insight into his misconduct, has remediated fully, and there is a very low risk that Dr Seedat will repeat his misconduct in the future. Therefore, the Tribunal found the following paragraphs of the SG to be relevant:

‘93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or

incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).

97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

a *A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

...

e *No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor’s unwillingness to engage.*

f *No evidence of repetition of similar behaviour since incident.*

g *The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.’*

81. Taking into account the particular circumstances of this case and the mitigation – Dr Seedat has apologised to Ms A, taken full responsibility for his actions from the outset, and no patient safety concerns have been raised – the Tribunal determined that Dr Seedat’s misconduct, although serious, was not fundamentally incompatible with continued registration. However, the misconduct is of such a nature that any sanction lower than a suspension would not be sufficient to maintain public confidence in the profession and uphold proper professional standards of conduct and behaviour.

82. The Tribunal then turned to the paragraphs of the SG which specifically address sexual misconduct. The Tribunal considered the relevance of paragraphs 149 and 150 of the SG:

‘149 *This encompasses a wide range of conduct from criminal convictions for sexual assault and sexual abuse of children (including child sex abuse materials) to sexual misconduct with patients, colleagues, patients’ relatives or others. See further guidance on sex offenders and child sex abuse materials at paragraphs 151–159.*

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.’*

83. The Tribunal considered the factors set out in paragraphs 149 and 150 but, in the particular circumstances of this case, it concluded that they did not assist the Tribunal further.

Erasure

84. Before concluding that suspension is the appropriate and proportionate sanction in this case, the Tribunal considered the sanction of erasure. The Tribunal did not find that Dr Seedat's misconduct is fundamentally incompatible with continued registration and therefore did not consider erasure to be appropriate. The Tribunal found that Dr Seedat has fully remediated, shown significant insight into his actions, and he is highly unlikely to repeat his misconduct in the future. Therefore the Tribunal determined that erasure would be a disproportionate sanction.

Length of suspension

85. Having determined to impose a suspension on Dr Seedat's registration, the Tribunal then considered the length of the suspension. The Tribunal had regard to the authorities to which Ms Stevens referred in her submissions.

86. The Tribunal took into account that it has determined that Dr Seedat does not pose a risk to patient safety, and the misconduct itself did not involve, directly or indirectly, any patients. The Tribunal further took into account Dr Seedat's extensive remediation, which began shortly after the incident, and has been comprehensive, successful, and sustained over a long period.

87. When considering the proportionality of the sanction, the Tribunal took into account the significant effect that any length of suspension would have on Dr Seedat's career, particularly in light of the fact that he has been in continuous practice since December 2021 with no suggestion that the misconduct has been repeated. The Tribunal further considered the positive testimonials and oral evidence given by Dr I that Dr Seedat is a valuable member of his team, and therefore the public interest in retaining the services of a good doctor should be considered.

88. Nevertheless, the Tribunal was mindful of Dr Seedat's serious departure from GMP, the risk to public confidence in the profession that Dr Seedat's actions resulted in, and further the serious nature of the inappropriate sexual behaviour.

89. Taking all these matters into account, the Tribunal determined that a suspension of one month would sufficiently mark the seriousness of Dr Seedat's misconduct and send a signal to the profession that such behaviour is unacceptable.

Review

90. Having determined to impose a suspension of one month, the Tribunal then considered whether to impose a review hearing at the conclusion of the suspension. The Tribunal considered the following paragraphs of the SG:

'164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a they fully appreciate the gravity of the offence

b they have not reoffended

c they have maintained their skills and knowledge

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.'

91. The Tribunal considered that Dr Seedat's apology, development of significant insight, and full remediation, show that he has fully appreciated the gravity of the misconduct. The Tribunal found that there is no evidence that Dr Seedat has repeated the misconduct, and further that there is a low risk of repetition in the future. Finally, the Tribunal took into account the various positive testimonials provided on Dr Seedat's behalf which show that there are no concerns about his clinical competence, and he has remained in continued practice since December 2021.

92. The Tribunal therefore determined not to direct a review of Dr Seedat's case.

Determination on Immediate Order - 25/05/2023

93. Having determined to suspend Dr Seedat's registration for one month, the Tribunal has considered, in accordance with Rule 17(2)(o) of Fitness to Practise Rules (2004, as amended) ('the Rules'), whether Dr Seedat's registration should be subject to an immediate order.

Submissions

94. On behalf of the GMC, Ms Johnson submitted that the circumstances of the case do not require an immediate order.

95. On behalf of Dr Seedat, Ms Stevens submitted that an immediate order is not necessary in this case to protect members of the public. Ms Stevens further submitted that an immediate order is not otherwise in the public interest, nor is it in Dr Seedat's best interests.

The Tribunal's Determination

96. The Tribunal has taken into account the relevant paragraphs of the SG which state:

'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor...

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'

97. The Tribunal determined not to impose an immediate order of suspension on the basis that it is not necessary for protection of the public, nor is it in Dr Seedat's best interests. The Tribunal further considered that the public interest in this case has been served by the imposition of a suspension on Dr Seedat's registration.

98. This means that Dr Seedat's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served unless he lodges an appeal. If Dr Seedat does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

99. There is no interim order to revoke.

100. That concludes this case.