

PUBLIC RECORD

Dates: 17/04/2023 - 09/05/2023

Medical Practitioner's name: Dr Muhammad SIDDIQUI

GMC reference number: 4282455

Primary medical qualification: MB BS 1982 University of Punjab (Pakistan)

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

Summary of outcome

Suspension, 6 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Damian Cooper
Lay Tribunal Member:	Mrs Sue Wadham
Medical Tribunal Member:	Dr Leigh-Anne Hill
Tribunal Clerk:	Mr Francis Ekengwu

Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	Mr Fraser Livesey, Special Counsel (representing Dr Siddiqui for Ms E's facts-stage cross-examination)
GMC Representative:	Ms Katie Jones, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held 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 - 03/05/2023

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

Background

2. Dr Siddiqui qualified in 1982 with an MB BS degree from the University of Punjab (Pakistan) and prior to the events which are the subject of the hearing Dr Siddiqui practised as an experienced middle staff grade anaesthetist with Pennine Acute Hospitals NHS Trust ('the Trust').

3. The Allegation that has led to Dr Siddiqui's hearing can be summarised as follows. That between 2018 and 2020, and in September 2021, whilst working at Pennine Acute Hospitals NHS Trust and Tameside NHS Hospital Trust respectively, Dr Siddiqui behaved inappropriately towards colleagues. It is alleged that Dr Siddiqui made inappropriate comments. It is also alleged that Dr Siddiqui's comments to two colleagues were sexually motivated.

The Outcome of Applications Made during the Facts Stage

4. The Tribunal granted the GMC's application, made pursuant to Rule 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to proceed in the absence of Dr Siddiqui. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Siddiqui is as follows:
That being registered under the Medical Act 1983 (as amended):

1. Between 2018 and 2020 whilst working at Pennine Acute Hospitals NHS Trust ('the Trust') you behaved inappropriately in that you:
 - a. in or around April 2018 left a note on a wall stating words to the effect of if anyone puts a locker in this place that individual will be challenged by me; **To be determined**

- b. on 13 April 2018 approached Ms A and;
 - i. shouted; **To be determined**
 - ii. pointed your finger; **To be determined**
 - iii. moved your face to within inches of Ms A’s face; **To be determined**
 - iv. said ‘every time you put a locker in my place, I am going to move it’; **To be determined**
- c. on 14 June 2018 you:
 - i. were rude and shouted at Mr B for not being available to transfer a patient stating words to the effect of; **To be determined**
 - 1. ‘why isn’t this patient going to CT?’; **To be determined**
 - 2. ‘what is the hold up’; **To be determined**
 - ii. said to Ms C ‘you are a pretty girl’ or words to that effect; **To be determined**
- d. on 15 June 2018 when asked by Mr B not to come into the lift because he was with a patient on a transfer, you got into the lift and said to Mr B ‘if you want to be awkward and not let me in the lift, you can, you can put a complaint in, you’ve already put a complaint in’, or words to that effect; **To be determined**
- e. on 16 June 2018 said to Mr B:
 - i. on one or more occasion ‘where is your complaint’, or words to that effect; **To be determined**
 - ii. that he was ‘nothing’; **To be determined**
- f. on 17 June 2018 you asked Ms C for her mobile number; **To be determined**
- g. on 17 June 2018 asked Mr B, in front of a patient, about his ‘complaint’ about you; **To be determined**
- h. on one or more occasion refused to work with at least 11 out of 26 Consultant colleagues; **To be determined**
- i. refused to attend a WHO meeting on 3 June 2019 (‘the WHO Meeting’); **To be determined**
- j. when asked why you would not attend the WHO Meeting stated ‘I don’t want to work with that man’, or words to that effect, in front of theatre staff and in reference to a Consultant Colleague(s); **To be determined**

- k. refused a direct instruction from the Clinical Director to attend the WHO Meeting on 3 June 2019; **To be determined**
 - l. on or around 3 June 2019 stated to the Clinical Director ‘if I am rostered with someone I don’t like I will go on emergency leave’. **To be determined**
 - m. failed to complete allocated lists on:
 - i. 28 May 2019; **To be determined**
 - ii. 3 June 2019; **To be determined**
 - n. on 2 July 2019 sent a rude and/or threatening email to the Medical Director of the Trust stating *‘I am hoping to work independently from 15 July. Please don’t complicate things any further which may result in me taking legal action against your excesses and the Trust’*; **To be determined**
2. You failed to comply with the requirement of a return to work programme as set out in a letter to you dated 3 May 2019 in that you did not make a written apology to Mr B and Ms C. **To be determined**
3. Between 9-13 September 2021 whilst working at Tameside NHS Hospital Trust (‘Tameside Trust’) you behaved inappropriately in that you:
- a. refused to:
 - i. do pre-assessment and documentation in notes; **To be determined**
 - ii. go to wards to assess patients; **To be determined**
 - iii. attend/answer bleeps; **To be determined**
 - b. stated that ‘a Consultant should hold the bleep’, or words to that effect; **To be determined**
 - c. raised your voice to a number of colleagues stating words to the effect of:
 - i. ‘why did you tell me they were in theatre 1 when you are all in here eating breakfast. You are all rude and bad mannered’; **To be determined**
 - ii. ‘you are all rude’; **To be determined**
 - iii. ‘how dare you make me walk all the way round to theatre for a pointless journey’; **To be determined**
 - iv. ‘you wasted my time and effort’; **To be determined**

- d. refused the Surgeon, Mr D's request to wrap a patient's arms by his side; **To be determined**
 - e. argued with Mr D about what procedure he was doing; **To be determined**
 - f. stated to Ms E words to the effect of:
 - i. 'I know ladies like an older man with experience'; **To be determined**
 - ii. 'I like younger ladies'; **To be determined**
 - iii. 'Younger ladies like older men with experience in loving'; **To be determined**
 - iv. 'I am experienced in loving younger ladies'; **To be determined**
 - v. 'younger boys/men only do a quick one and just leave but I know how to love them properly'; **To be determined**
 - g. touched Ms E's arm; **To be determined**
 - h. stated to Ms E and Ms F 'ladies have bigger throats than you think, they can put big things down there, you know what I mean', or words to that effect. **To be determined**
4. Your actions were sexually motivated as set out at paragraphs:
- a. 1.c.ii.; **To be determined**
 - b. 1.f.; **To be determined**
 - c. 3.f.; **To be determined**
 - d. 3.g.; **To be determined**
 - e. 3.h. **To be determined**

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

The Facts to be Determined

6. In light of Dr Siddiqui's response to the Allegation made against him the Tribunal is required to determine all paragraphs of the Allegation.

Witness Evidence

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

- Dr G, by video link;
 - Mr B, by video link;
 - Ms E, by video link; and
 - Dr H, by video link.
8. 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 I;
 - Dr J;
 - Dr K;
 - Ms C.
9. Dr Siddiqui did not provide a witness statement but provided a written response to his Rule 7 letter in advance of the hearing and also gave oral evidence at the hearing.

Documentary Evidence

10. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:
- Email from Ms A to Ms I, dated 13 April 2018;
 - Email from Ms E to Mr L, dated 14 September 2021;
 - Email from Dr G to Dr Siddiqui, dated 31 May 2019;
 - Email from Dr Siddiqui to Dr G, dated 3 June 2019;
 - Email from Dr L to Dr G, dated 4 June 2019;
 - Trust interview notes of Dr G, dated 13 August and 13 November 2019;
 - Note of Incident, undated;
 - Trust statement for Mr B, dated 14 June 2018;
 - Dr Siddiqui's Rule 7 response, dated 17 May 2022; and
 - Letter of support for Dr Siddiqui from Mr N, dated 3 December 2021.

The Tribunal's Approach

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

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1(a)

13. The Tribunal noted that during Dr Siddiqui's oral evidence, in response to the Tribunal putting the Allegation directly to Dr Siddiqui he admitted that 'in April 2018 he left a note on a wall stating words to the effect of if anyone puts a locker in this place that individual will be challenged by me'. In addition, on the evidence of Ms I, Dr Siddiqui had admitted to her that he put up the note when she took it with her to ask him about it.

14. Mindful of the stem of paragraph 1 of the Allegation, the Tribunal then considered whether Dr Siddiqui's behaviour was inappropriate, including the context in which the note was written.

15. The Tribunal was concerned that this was a stark, unsigned note, which could be read by anybody visiting the department. Locum staff, as well as employees familiar with Dr Siddiqui's objections to the locker changes, would see the note. In the Tribunal's view, the note contained an overt statement of threatened challenge to anyone putting a locker in the space and in those circumstances was inappropriate in such a workplace setting. For the Tribunal, there were clearly other appropriate routes for Dr Siddiqui to follow to resolve his issues with management.

16. On the balance of probabilities, the Tribunal found paragraph 1(a) of the Allegation proved.

Paragraph 1(b)

17. The Tribunal noted that this allegation of inappropriate behaviour arose from the witness evidence of Ms A, which included her contemporaneous account of the incident provided by email to Ms I. The Tribunal considered that email and Ms A's witness statement. The contemporaneous email stated:

'... he [Dr Siddiqui] pointed at me and shouted every time YOU put a locker in my space I'm going to move it'.

The Tribunal noted that Ms A's email did not state that Dr Siddiqui moved his face to within inches of her face, although her witness statement, signed on 5 September 2022 (more than four years after the incident), did include it.

18. The Tribunal considered Dr Siddiqui's account of the event and noted that Dr Siddiqui denied aspects of Ms A's recollection of their interaction during his oral witness evidence,

specifically moving his face to within inches of hers. Dr Siddiqui had, however, conceded that there might have been a heated exchange with Ms A.

19. The Tribunal noted that Dr Siddiqui admitted he pointed and may have been perceived to have been shouting. He said he has a loud voice as, over time, he has had to adapt his speaking voice so as to be understood because he has a foreign accent. It further noted that Dr Siddiqui admitted he said, ‘every time you put a locker in my place, I am going to move it’, but denied that he had been within inches of Ms A’s face. The Tribunal noted that Dr Siddiqui had said that he was of relatively large stature and may have been perceived to have been too close to Ms A because her office was a small space, and another person was present.

20. The Tribunal was satisfied that it was more likely than not that Dr Siddiqui had shouted, pointed his finger at, and said the words set out in paragraph 1(b)(iv) to Ms A. It was not satisfied, on the evidence, that it was more likely than not Dr Siddiqui had moved his face to within inches of Ms A’s face. The Tribunal was in no doubt, that such conduct by a senior anaesthetist towards a member of the Trust administrative staff was inappropriate. Accordingly, it found paragraphs 1(b) (i), (ii) and (iv) of the Allegation proved and found paragraph 1(b) (iii) of the Allegation not proved.

Paragraph 1(c)(i)

21. The Tribunal first considered paragraphs 1(c)(i) (1) and (2) of the Allegation. The Tribunal noted that it was required to determine whether Dr Siddiqui behaved inappropriately because he was rude and shouted at Mr B in the terms alleged.

22. The Tribunal had regard to the contemporaneous written evidence, and the witness account of Mr B both oral and written. The Tribunal noted that Mr B’s contemporaneous account of the incident on 14 June 2018 said that Dr Siddiqui had shouted, but did not state where the patient in question was to be transferred to from A&E. However, Mr B’s witness statement, signed on 25 September 2022 (more than four years after the incident), did include a reference to ‘CT’.

23. The Tribunal also noted that Dr Siddiqui had explained that the patient was awaiting transfer to ITU and gave a detailed account of how there was some urgency because the patient was very unwell and was intubated and ventilated. He admitted having been annoyed because of his concerns about a very ill patient and the delays in having them transferred.

24. Although Mr B confirmed in oral evidence his witness statement that it was a transfer to CT, the difference between his contemporaneous account and Dr Siddiqui’s explanation caused the Tribunal to question Mr B’s recollection on this point such a long time after the incident. The Tribunal also noted that the patient was intubated and ventilated according to Ms C’s account and that she understood that the patient was being transferred to a ward. However, she also mentioned Dr Siddiqui’s reference to ITU in her contemporaneous

complaint to the Trust. Ms C's evidence also confirmed that Dr Siddiqui had been shouting inappropriately at Mr B about the delays and that witnessing it had caused her to intervene.

25. The Tribunal, therefore, on balance was not satisfied that it was more likely than not Dr Siddiqui had stated words to the effect of 'why isn't this patient going to CT?'. However, the evidence was such that the Tribunal was of the view that it was more likely than not that Dr Siddiqui was rude and had shouted at Mr B words to the effect of 'what is the hold up?'. It was also satisfied that, whatever the reason for Dr Siddiqui's anger and frustration, it was inappropriate to take it out on Mr B, the only porter available to assist in the A&E department at that time. Accordingly, the Tribunal determined paragraph 1(c)(i)(1) not proved and paragraph 1(i)(2) proved.

Paragraph 1(c)(ii) and 4(a)

26. The Tribunal reminded itself that during oral witness evidence Dr Siddiqui admitted to saying to Ms C 'you are a pretty girl' or words to that effect and Ms C had also provided evidence that Dr Siddiqui had said this to her. In the Tribunal's view, in the workplace setting, such a comment made by a senior male anaesthetist to a female resuscitation practitioner colleague was completely inappropriate. Accordingly, the Tribunal found paragraph 1(c)(ii) proved.

27. The Tribunal then considered paragraph 4(a) of the Allegation in relation to paragraph 1(c)(ii) which alleges that Dr Siddiqui's actions were sexually motivated. Ms Jones, on behalf of the GMC had submitted that the actions were for Dr Siddiqui's own sexual gratification or in pursuit of a future sexual relationship.

28. The Tribunal noted Dr Siddiqui's explanation, given under oath, that he had been trying to 'break the ice' with Ms C. He said that she had challenged him earlier that day in relation to several matters, including the catheterisation of a patient and his conduct towards Mr B, and that he was trying to improve the working relationship.

29. Ms C's contemporaneous complaint referred to Dr Siddiqui having been gesturing towards her in conversation with another colleague, and speaking to that colleague in another language, although Ms C had discerned the word 'nurse' being used. However, the Tribunal noted that Ms C neither asserted that she had interpreted Dr Siddiqui's comments in a sexual manner, nor suggested that they had been made in such a way. Her clear assertion was that it was inappropriate, which the Tribunal has already found to be the case.

30. The Tribunal was firmly of the view that to say such a thing to a junior female colleague was unacceptable and inappropriate, but it could not identify evidence that persuaded it that Dr Siddiqui's comments, on balance, were made for his sexual gratification or in pursuit of a future sexual relationship.

31. Accordingly, the Tribunal found paragraph 4(a) of the Allegation as it related to paragraph 1(c)(ii) not proved.

Paragraph 1(d)

32. The Tribunal considered the first part of paragraph 1(d) of the Allegation and whether Dr Siddiqui inappropriately entered the lift when asked by Mr B not to come into the lift. The Tribunal noted it was not contested by Dr Siddiqui that he entered the lift. It took the view that it was not necessarily for Mr B to decide whether Dr Siddiqui could enter the lift, especially if there was space and no rule precluding Dr Siddiqui from doing this. Dr Siddiqui explained that the lift was going up, he was going up, and he took the opportunity get into the lift.

33. The Tribunal then considered the latter part of paragraph 1(d) of the Allegation. It noted that during oral witness evidence Dr Siddiqui agreed that he said to Mr B words to the effect of ‘if you want to be awkward and not let me in the lift, you can, you can put a complaint in, you’ve already put a complaint in’. In Dr Siddiqui’s own words in oral evidence, he had been deliberately ‘goading’ Mr B in relation to his complaint about the incident on 14 June 2018. The Tribunal was in no doubt that this was inappropriate conduct towards a junior colleague made with the intent of intimidating them.

34. Accordingly, the Tribunal found paragraph 1(d) of the Allegation proved on the basis of the comments made by Dr Siddiqui to by Mr B.

Paragraph 1(e) and 1(g)

35. The Tribunal considered paragraphs 1(e)(i) and 1(g) of the Allegation together, both of which related to Dr Siddiqui’s continued, and admitted, ‘goading’ of Mr B in the days that followed. The Tribunal noted that Dr Siddiqui had admitted under oath to asking Mr B if he had put in a complaint against him, a number of times over the course of a few days.

36. The Tribunal therefore found paragraphs 1(e)(i) and 1(g) of the Allegation proved.

37. The Tribunal then considered paragraph 1(e)(ii) of the Allegation which alleged that Dr Siddiqui inappropriately stated that Mr B was ‘nothing’. Mr B also confirmed this briefly in his oral evidence but was unable to recall and provide any additional context for the way the comment was made. The Tribunal noted that Dr Siddiqui denied this allegation and added that he treated everybody equally and would not make this comment to somebody he considered a friend.

38. The Tribunal considered Mr B’s written account including his contemporaneous written account of incidents to the Trust. It noted that Mr B’s contemporaneous accounts did not mention Dr Siddiqui having referred to him as ‘nothing’. The assertion was only in Mr B’s 2022 witness statement and in his oral evidence.

39. The Tribunal noted that Mr B detailed a number of incidents consistently but was concerned that he was unable to provide further context for this comment when given the opportunity. In light of the inconsistency between the contemporaneous account and the

witness statement and of Dr Siddiqui's assertion that he had considered Mr B to be a work friend over many years, the Tribunal was of the view that it was not, on balance, more likely that Dr Siddiqui had made this comment as alleged.

40. Accordingly, the Tribunal found paragraph 1(e)(ii) of the Allegation not proved.

Paragraph 1(f) and 4(b)

41. The Tribunal noted that when this allegation was put to Dr Siddiqui during his oral witness evidence, he admitted that he had asked this question. He explained that when he had asked Ms C's name, she had thrust her name badge towards him and told him and then he joked that he did not need her name, he needed her email address and mobile number. Dr Siddiqui added that this was a 'flippant' remark on his part. Dr Siddiqui also added that he had not asked this question in the pursuance of a future sexual relationship or with any sexual motive but to 'break the ice' and because he did not know Ms C's name. Dr Siddiqui offered an apology for this at the hearing.

42. The Tribunal considered whether this comment was inappropriate. It was of the view that asking a more junior female nursing colleague for her number and email address was unacceptable and inappropriate and reminded itself that Dr Siddiqui had conceded this in retrospect.

43. With regard to a sexual motive, the Tribunal was mindful Ms C did not assert that this was sexually motivated in any of her contemporaneous account or witness statement. However, she had been clear in telling Dr Siddiqui that she considered it inappropriate and had reported the incident. Further Ms C could not recall the context in which the comments arose other than that it was after Dr Siddiqui had asked her name. The Tribunal could not identify any evidence that suggested the request was made in a sinister fashion in pursuit either of sexual gratification or a future sexual relationship, although it had undoubtedly been inappropriate and taken as such by Ms C.

44. The Tribunal found paragraph 1(f) of the Allegation proved. It found paragraph 4(b) of the Allegation as it related to paragraph 1(f) not proved.

Paragraph 1(h)

45. The Tribunal noted that Dr Siddiqui had admitted that he had refused to work with at least 11 out of 26 consultant colleagues. His admission is further evidenced in the email correspondence between Dr Siddiqui and Ms I and Dr G.

46. Dr Siddiqui asserted that he wished not to work with consultants who did not practise the total intravenous anaesthesia ('TIVA') technique he himself preferred. However, the Tribunal noted that Dr Siddiqui had not raised this, as his reason for not working with a number of consultants, with Dr G, his Clinical Director, directly but had raised it with the Trust's investigator as part of an investigation into Dr Siddiqui's conduct. Dr G confirmed that

he had only become aware of Dr Siddiqui's assertion about the TIVA technique from the investigator.

47. Dr G also said that the reasons Dr Siddiqui had given for not working with several consultants was because of bad feedback they had given about him previously. This, again, was supported by the email correspondence between Ms I and Dr Siddiqui.

48. Further, in the case of his refusal to work with Dr M, a consultant anaesthetist, Dr Siddiqui attributed it to a souring of his relationship following an occasion on which he believed Dr M should have signed for the use of controlled drugs during anaesthesia of a patient with whose care they had both been involved. The Tribunal further noted that Dr Siddiqui's Rule 7 response did not mention that he had more than one reason for not wanting to work with this number of consultants.

49. The Tribunal noted that Dr Siddiqui was a middle staff grade practitioner but was very experienced and, in some situations, may have been more experienced or just as experienced as some of the consultants. However, Dr G had explained to the Tribunal that a consultant would be capable of supervising any anaesthetic technique used, including 'TIVA', even if it was not their own preferred technique.

50. The Tribunal considered whether refusing to work with up to 11 out of 26 consultants was inappropriate. It had heard and seen evidence that the refusal in relation to that number of consultants made rostering unmanageable for the Trust. Dr G had explained that single difficult working relationships could be accommodated, if necessary, by separation of the parties in rotas, but that when it affected 11 out of 26 consultants it became unworkable. Although Dr Siddiqui had asserted that it was the TIVA technique that lay behind his refusal, the Tribunal was concerned by the different reasons given on different occasions, to different individuals, by Dr Siddiqui.

51. The Tribunal was satisfied that Dr Siddiqui had refused to work with the consultants as alleged and that the volume of consultants involved made it unmanageable for the Trust and was inappropriate. It therefore found paragraph 1(h) proved.

Paragraph 1(i)

52. Noting that Dr Siddiqui had admitted that he refused to attend the WHO Meeting on 3 June 2019, the Tribunal further noted that the reason Dr Siddiqui had refused to attend the meeting was that he had refused to undertake the anaesthetic operating list to which the meeting related. That latter refusal did not form part of paragraph 1(i) of the Allegation. The Tribunal had sight of the relevant Trust policy, which made it clear that it was mandatory for anyone involved in an operating list to attend the WHO meeting (beforehand) to which it related.

53. Dr G had confirmed to the trust investigator that on the basis that Dr Siddiqui's refusal to attend the WHO meeting was because he was not intending to undertake the list to which it related, Dr G too could understand Dr Siddiqui's logic.

54. Based on the evidence, and the framing of the relevant paragraph of the Allegation, the Tribunal found that it was not inappropriate for Dr Siddiqui not to attend the WHO Meeting given that he was not going to participate in the list. It found paragraph 1(i) of the Allegation not proved.

Paragraph 1(j)

55. The Tribunal noted that the Allegation centred around Dr Siddiqui's refusal to work with a particular consultant colleague who Dr Siddiqui is alleged to have referred to as 'that man' in front of theatre staff.

56. The evidence relating to this paragraph of the Allegation was that of Drs M and K, both of whom exhibited the same email to their witness statements, sent by Dr M to Dr G and another consultant, copying in Dr K. That written account does not contain any assertion that Dr Siddiqui made this comment in front of theatre staff. The Tribunal was of the view that, given that Dr M was one of the consultants with whom Dr Siddiqui had already told the Trust he refused to work, the mischief of this allegation lay in whether it was inappropriate to make the comment *in front of theatre staff*.

57. The Tribunal was of the view that had Dr Siddiqui not wanted to work with a particular colleague he should have raised this issue beforehand but importantly noted that there was no evidence that Dr Siddiqui's refusal had occurred in front of theatre staff. Further the Tribunal saw evidence that suggested that this statement was made in a private conversation to another colleague.

58. Accordingly, the Tribunal as not satisfied on the balance of probabilities that Dr Siddiqui behaved inappropriately, in stating that he did not want to work with 'that man' in front of theatre staff. The Tribunal found paragraph 1(j) of the Allegation not proved.

Paragraph 1(k)

59. The Tribunal had heard from Dr Siddiqui in his oral witness evidence that he admitted that he refused a direct instruction from the Clinical Director to attend the WHO Meeting on 3 June 2019. It further noted that Dr G had documented this refusal and that Dr Siddiqui had been given an opportunity to explain why he was refusing to attend a meeting for which he was rostered. The Tribunal determined that it was inappropriate to refuse a direct instruction from the Clinical Director which was given to facilitate Dr Siddiqui's phased return-to-work programme.

60. Accordingly, the Tribunal found paragraph 1(k) of the Allegation proved.

Paragraph 1(l)

61. The Tribunal first considered the context in which this statement was made to Dr G, the Clinical Director. Dr G's evidence to the Tribunal explained that Trust staff were entitled, each year, to take up to two days emergency leave, in respect of which the Trust did not require the member of staff to give a reason for why they needed the leave. Dr G acknowledged that the Trust's policy was not clear on the particulars of emergency leave but gave an example of a circumstance in which he envisaged the need for such leave might arise.

62. On Dr G's account, in his 3 June 2019 email to the Trust Medical Director (and others), Dr Siddiqui had said to him, 'if I am rostered with someone I don't like, I will go on emergency leave'. Dr G in response to this comment said to Dr Siddiqui that this was inappropriate. However, the Tribunal noted that Dr G then permitted Dr Siddiqui to take the emergency leave stating that it was expedient, in the hope of rebuilding the relationship, for Dr Siddiqui to take those two days of emergency leave.

63. Dr Siddiqui's contemporaneous written account of this event suggested that he had taken this emergency leave because it was stressful working with a colleague he did not want to be rostered with.

64. The Tribunal noted that the Trust did not require reasons to be given for taking the permitted emergency leave. It was concerned that although Dr G had initially told Dr Siddiqui that his proposed use of emergency leave would be inappropriate, the Trust then went on to allow Dr Siddiqui to take the two days of emergency because it was expedient for it to do so. The Tribunal was not satisfied that it was inappropriate, in that context, for Dr Siddiqui to say to Dr G, what was alleged in this paragraph. The Tribunal found paragraph 1(l) of the Allegation not proved.

Paragraph 1(m)

65. The Tribunal considered written contemporaneous accounts provided by Dr G, in which Dr M and Dr O confirmed to Dr G that Dr Siddiqui did not complete lists with them, to which he had been allocated on 28 May 2019 and 3 June 2019. The Tribunal was satisfied, on the evidence it had seen, that Dr Siddiqui had a duty to complete the allocated patient lists on 28 May 2019 and 3 June 2019 as part of his phased return-to-work programme. The Tribunal noted that Dr Siddiqui needed to complete the allocated lists so that Dr G could sign him off for independent work.

66. The Tribunal was of the view that such a refusal, based upon the various reasons it had heard had been given for the refusal to work with certain consultant colleagues, was inappropriate. The Tribunal was also concerned that Dr Siddiqui had simply not attended to complete the relevant lists and, other than his statement to Dr K about not wanting to work with 'that man' had not provided any notice of his non-attendance to the consultants involved.

67. Accordingly, the Tribunal found paragraph 1(m) of the Allegation proved.

Paragraph 1(n)

68. Dr Siddiqui admitted to the Tribunal that he had sent the email to the Trust Medical Director in the terms alleged. He explained that he had immediately regretted sending the email and had tried to recall it at the time but did not know how. The Tribunal then considered whether Dr Siddiqui's behaviour in sending the email was inappropriate.

69. The Tribunal noted that Dr Siddiqui's email was sent in reply to an email from the Medical Director expressing her concerns about Dr Siddiqui's request to participate in other work under a waiting list initiative, whilst still under the terms of his return-to-work programme. The Tribunal considered it reasonable for the Medical Director to clarify that she considered Dr Siddiqui's request to be premature. Taking into account Dr Siddiqui's assertions that XXX and that he meant to make his request in relation to the period after his return-to-work had been completed, the Tribunal was nevertheless of the view that to respond to the Medical Director with an overt threat of potential legal action was inappropriate in the circumstances. Accordingly, it found paragraph 1(n) of the Allegation proved.

Paragraph 2

70. The Tribunal noted that Dr Siddiqui had admitted this paragraph of the Allegation in his oral evidence. He had stated that it was true, he had not made a written apology to either Mr B or Ms C, but that he had felt he had been unjustly punished for a long time. He said that he had asked for the Trust to convey his apologies but had refused to provide a written apology at a later date.

71. Accordingly, the Tribunal found paragraph 2 of the Allegation proved.

Paragraph 3(a)

72. The Tribunal considered the evidence of Dr H and Dr Siddiqui. It noted that Dr H referred to only one complaint of a non-response to a bleep, of which he was informed via phone call by the surgical team. He explained that his evidence regarding Dr Siddiqui not attending far-off wards was based on over-hearing a conversation between Dr Siddiqui and some surgeon colleagues. The Tribunal noted that it had seen no evidence of any outright refusal by Dr Siddiqui. It further noted that Dr H had not confirmed any specific refusal noted by patients or colleagues, but had reported in general terms matters which, in turn, had been reported to him by other staff without any accompanying specific details. In addition, Dr H seemed to the Tribunal to have formed a view of Dr Siddiqui's attitude based on having overheard the conversation with surgeon colleagues.

73. Dr Siddiqui had asserted to the Tribunal that he done everything that was asked of him and denied this allegation. The Tribunal also had regard to a letter provided to Dr

Siddiqui by Mr N, on-call Consultant General Surgeon during three of the days Dr Siddiqui worked at Tameside Trust. The letter was provided by Mr N with his consent for it to be used by Dr Siddiqui as a reference or transcript of support concerning the period they worked together. Although Mr N did not give evidence to the hearing, given Dr Siddiqui's unrepresented position, the Tribunal was of the view that it was appropriate to consider Mr N's account of their three days' work together. For the Tribunal, the content of Mr N's letter supported Dr Siddiqui's version of events, that he had done all that was asked of him, and was clear about how well Mr N believed Dr Siddiqui had worked, including the assessment of patients and completion of relevant documentation.

74. Having considered all of the evidence, the Tribunal thought it unlikely that Dr Siddiqui refused to go to wards to assess patients and unlikely that he refused to attend/answer bleeps. Further in the written reference of Mr N, it was clear that Dr Siddiqui had been hardworking and dedicated during a busy and challenging weekend.

75. Accordingly, the Tribunal found paragraphs 3(a)(i-iii) of the Allegation not proved.

Paragraph 3(b)

76. The Tribunal considered whether it was inappropriate for Dr Siddiqui to state that 'a consultant should hold the bleep', or words to that effect. The Tribunal considered it not inconceivable that a context could arise where it would be appropriate for the consultant to hold the on-call bleep. For example, Dr Siddiqui had explained to the Tribunal that the circumstances arose in this case when he was 'scrubbing up' for theatre, had consequently left the bleep elsewhere and was unable to answer it. Dr H did not provide any explanation of the specific circumstances in which Dr Siddiqui had said the consultant should hold the bleep, but seemed to have interpreted it as a general position Dr Siddiqui held, rather than relating to a specific situation.

77. The Tribunal considered Dr Siddiqui's written account of when he made these comments and found it consistent with his oral evidence. He said that it is routine that the consultant would hold the on-call bleep if the first-on-call bleep holder was, for example, in theatre.

78. On balance, the Tribunal thought it more likely than not that Dr Siddiqui had asked Dr H to answer the bleep in specific justifiable circumstances and not simply as an expression of a general position. It found paragraph 3(b) of the Allegation not proved.

Paragraph 3(c)

79. The Tribunal considered Dr Siddiqui's account of the event and his explanation that he was frustrated that the colleagues at Tameside Trust were rude in not answering his question and making him undertake a wasted walk to theatre. Dr Siddiqui provided further context and said that this took place in the heat of the moment and clarified that he had a loud voice, which was adapted for clarity because, when he first moved to the UK, he was perceived as

mumbling. He added that he had referred to colleagues as rude and bad-mannered because he believed that he had been sent on a wild goose chase and his time and effort wasted. The Tribunal also noted that Dr Siddiqui added that he went back and apologised.

80. The Tribunal also considered the evidence of Ms E, in which she was clear that Dr Siddiqui had raised his voice and had been specific about the effect that Dr Siddiqui's behaviour had had on the group of colleagues in attendance. Ms E had acknowledged that Dr Siddiqui had subsequently apologised to them.

81. The Tribunal was satisfied on the evidence that Dr Siddiqui had raised his voice and said words to the effect of those alleged in these paragraphs of the Allegation. In doing so it was also satisfied that he had acted inappropriately and, accordingly, it found paragraph 3(c) of the Allegation proved.

Paragraph 3(d) and 3(e)

82. Although these two allegations concerned the pre-theatre briefing and an incident with the patient in position in theatre, the Tribunal considered it appropriate to consider them together as they both related to interactions apparently observed by Ms E between Dr Siddiqui and the surgeon, Mr D. It noted that it had not seen any evidence from Mr D himself.

83. The GMC had not put any evidence before the Tribunal that Dr Siddiqui refused Mr D's request to wrap a patient's arms by his side and also was of the view that it was highly unlikely that an anaesthetist would argue over a surgical procedure.

84. The Tribunal had seen a written account of Ms E, the anaesthetic nurse, which related her interpretation of a discussion between Dr Siddiqui and Mr D what surgical procedure was to be undertaken and how to position the patient's arms. The Tribunal noted that Ms A was neither a surgeon nor an anaesthetist and therefore was perhaps not best placed to comment on the rationale for the discussion between Dr Siddiqui and the surgeon. This was more concerning for the Tribunal when Ms E's account could not be compared with any evidence from the surgeon. The Tribunal noted Dr Siddiqui's assertion that the surgeon was content with the way the patient's arms were placed for the surgery and he gave a clear explanation for why he needed the patient's arms in the position they were, given the surgery to be undertaken and the anaesthetic infusions he was using.

85. The Tribunal also reminded itself of Mr N's positive account of Dr Siddiqui's work that weekend, which it considered was likely to have been informed by input from the on-call surgical registrars working under Mr N. Having considered and balanced all of the evidence, the Tribunal was not satisfied that Dr Siddiqui had acted inappropriately as alleged. It therefore found the paragraphs 3(d) and 3(e) of the Allegation not proved.

Paragraph 3(f) and 4(c)

86. The Tribunal first considered all relevant evidence about the alleged incident between Dr Siddiqui and Ms E.

87. The Tribunal noted that it had seen Ms E's witness statement and the email she sent to her matron two days after the incident occurred on 12 September 2021. It found Ms E's written accounts consistent with her oral witness evidence but noted some extra explanation provided in oral evidence that did not appear in the original email or her witness statement. Ms E referred to Dr Siddiqui having referred to caressing ladies afterwards in the context of him knowing 'how to love them properly'. The Tribunal asked Ms E why this was not mentioned in her email, but she was unable specifically to recall why it was not included.

88. The Tribunal was of the view that it was an explanation of the way in which Ms E said Dr Siddiqui said he knew how 'to love them properly' and as such were 'words to the effect of' rather than some embellishment of an earlier account. The Tribunal further noted that Dr Siddiqui, in his Rule 7 response and in oral evidence, admitted to having referred to older men having more experience in many things, including 'loving', relative to younger men.

89. The Tribunal concluded that it had no reason to doubt the contemporaneous email account of Ms E to her matron, which was consistent with her oral evidence. On the balance of the evidence, the Tribunal was satisfied that the comments, or words to the same effect, were made by Dr Siddiqui as alleged. It considered these comments to be utterly unacceptable and inappropriate, not least because of the way they had made Ms E uncomfortable and no longer want to work with Dr Siddiqui.

90. Accordingly, the Tribunal found paragraph 3(f) of the Allegation proved.

91. With regard to paragraph 4(c) of the Allegation, the Tribunal noted that the GMC's position was that Dr Siddiqui's conduct was sexually motivated in pursuit of sexual gratification. Dr Siddiqui denied this and stated that he had made those comments jokingly which was consistent with his Rule 7 response where he explained that dirty jokes were shared in the workplace amongst doctors and theatre staff, both in person and via WhatsApp.

92. The Tribunal acknowledged that Ms E had interpreted the comments in a sexual context, given what was said and because of how they made her feel. It was common ground that the conversation had arisen between Dr Siddiqui and Ms E because of a discussion about how old he was. Dr Siddiqui had explained to the Tribunal that the discussion had also then included reference to how quick he was with his anaesthesia of patients, and that that came with experience. Dr Siddiqui's position was that he merely said older men were experienced in lots of things, including loving.

93. Having found that the comments were made as alleged, the Tribunal noted that they were made in general terms about older men and younger boys/men and about Dr Siddiqui with respect to younger ladies generally. It was not alleged that any of the comments was made directly about Ms E herself, but about younger ladies generally. In her email to her

matron, Ms E said: *“After everything he said he said not to take it personally it’s just the way he is and if he offended me then I shouldn’t take it personally”*

94. The Tribunal had regard to Dr Siddiqui’s previous good character and the fact that in the face of serious allegations such as these it may be less likely that he acted as alleged by paragraph 4(c).

95. The Tribunal was of the view that following Dr Siddiqui’s apology to those in the staff room at the beginning of the day, he was aware that he had begun his relationship with the theatre staff badly and ‘got off on the wrong foot’. Aware of the inappropriate ‘banter’ that takes place in the theatre environment, Dr Siddiqui’s assertion that he made the comments about older men and loving jokingly appeared to the Tribunal to have been a very poor attempt by Dr Siddiqui to engage with staff he had offended earlier to try and put the relationship right.

96. Whilst the comments did not include any mention of the word sex, and Ms E said that Dr Siddiqui had not used the word, the Tribunal acknowledged the sexualised nature of the comments and Ms E’s own interpretation of them. However, it had not seen evidence sufficient to persuade it that, on the balance of probabilities, Dr Siddiqui had made the comments in pursuit of his own sexual gratification. In the Tribunal’s view it was more likely that his comments were a very poor, crass, ill-judged, and wholly inappropriate attempt to be rude, in a joking way, in conversation with Ms E. Further, given Dr Siddiqui’s good character, the Tribunal considered it more likely that the comments reflected an acute misunderstanding of the situation and failure to read the room, rather than being sexually motivated.

97. For the reasons it had set out, the Tribunal found paragraph 4(c) of the Allegation not proved.

Paragraph 3(g) and 4(d)

98. The Tribunal considered the accounts of Ms E and Dr Siddiqui, oral and written. It noted that Ms E said in her written evidence that Dr Siddiqui touched her arm, and she moved away. In her oral evidence however, she said Dr Siddiqui had tried to touch her arm and she moved away so he did not have to touch her.

99. Dr Siddiqui said that he did not recall the event but stated that if he did touch Ms E it was to enable him to access the drug cupboard or storage facility, which would not have been inappropriate.

100. Given the slightly differing accounts given by Ms E, and in light of Dr Siddiqui’s account and previous good character, the Tribunal was not satisfied on the balance of probabilities, that Dr Siddiqui actually touched Ms E’s arm as alleged. In light of its decision, it was not necessary for the Tribunal to consider the appropriateness or otherwise of the touching, or sexual motivation.

101. Accordingly, the Tribunal found paragraph 3(g) of the Allegation not proved and therefore found paragraph 4(d) of the Allegation not proved.

Paragraph 3(h) and 4(e)

102. The Tribunal had regard to the evidence of Ms E and Dr Siddiqui in relation to this paragraph of the Allegation. Ms E was clear that an initial conversation about the size of ET tube required for the patient was escalated by Dr Siddiqui into the inappropriate statement alleged. Mr F (a male nurse) was present but said he had not heard the comments made. Ms E said she had acknowledged to Dr Siddiqui that he had made the statement, but said she refused to engage with the comment. Dr Siddiqui's position was that he never turned the ET tube discussion into anything inappropriate.

103. The Tribunal was of the view that there was no sound reason for it to call into question the contemporaneous account provided by Ms E to her matron two days after the incident. On the balance of probabilities, it was satisfied that it was more likely than not Dr Siddiqui had made the comments as alleged and that such comments were wholly unacceptable and inappropriate to be made to a junior female colleague at work. Accordingly, it found paragraph 1(h) of the Allegation proved.

104. Whilst not admitting he made them, in written evidence from Dr Siddiqui, he said that doctors and theatre staff do exchange jokes and some of them are dirty, but these comments are not intended to be personal. He also stated that all kinds of dirty jokes are exchanged between doctors and nurses on WhatsApp, but no such complaints are made against each other. This further suggested to the Tribunal that he may have made such inappropriate comments himself but had tried to do so in a poor attempt to lighten the mood.

105. The Tribunal referred to the reasons it had given above for its finding of 'not proved' in relation to paragraph 4(c) of the Allegation, including its comments about Dr Siddiqui's previous good character. It was not satisfied that the evidence was such that it was reasonable for it to infer that Dr Siddiqui had made the comments in pursuit of his own sexual gratification, and thereby sexually motivated as had been submitted on behalf of the GMC. Rather, the Tribunal considered it more likely than not that Dr Siddiqui's inappropriate comments were ill-judged, distasteful, and unacceptable attempts at a rude joke.

106. Accordingly, the Tribunal found paragraph 4(e) of the Allegation not proved.

Paragraphs 4(a) to (e)

107. The Tribunal has provided its reasons for finding paragraphs 4(a) to (e) of the Allegation not proved above, at the point at which it has explained its reasons for its findings on each of the earlier paragraphs of the Allegation to which paragraph 4 relates.

The Tribunal's Overall Determination on the Facts

108. The Tribunal has determined the facts as follows:

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

1. Between 2018 and 2020 whilst working at Pennine Acute Hospitals NHS Trust ('the Trust') you behaved inappropriately in that you:
 - a. in or around April 2018 left a note on a wall stating words to the effect of if anyone puts a locker in this place that individual will be challenged by me; **Determined and found proved**
 - b. on 13 April 2018 approached Ms A and;
 - i. shouted; **Determined and found proved**
 - ii. pointed your finger; **Determined and found proved**
 - iii. moved your face to within inches of Ms A's face; **Not proved**
 - iv. said 'every time you put a locker in my place, I am going to move it'; **Determined and found proved**
 - c. on 14 June 2018 you:
 - i. were rude and shouted at Mr B for not being available to transfer a patient stating words to the effect of;
 1. 'why isn't this patient going to CT?'; **Not proved**
 2. 'what is the hold up'; **Determined and found proved**
 - ii. said to Ms C 'you are a pretty girl' or words to that effect; **Determined and found proved**
 - d. on 15 June 2018 when asked by Mr B not to come into the lift because he was with a patient on a transfer, you got into the lift and said to Mr B 'if you want to be awkward and not let me in the lift, you can, you can put a complaint in, you've already put a complaint in', or words to that effect; **Determined and found proved**
 - e. on 16 June 2018 said to Mr B:
 - i. on one or more occasion 'where is your complaint', or words to that effect; **Determined and found proved**
 - ii. that he was 'nothing'; **Not proved**

- f. on 17 June 2018 you asked Ms C for her mobile number; **Determined and found proved**
 - g. on 17 June 2018 asked Mr B, in front of a patient, about his ‘complaint’ about you; **Determined and found proved**
 - h. on one or more occasion refused to work with at least 11 out of 26 Consultant colleagues; **Determined and found proved**
 - i. refused to attend a WHO meeting on 3 June 2019 (‘the WHO Meeting’); **Not proved**
 - j. when asked why you would not attend the WHO Meeting stated ‘I don’t want to work with that man’, or words to that effect, in front of theatre staff and in reference to a Consultant Colleague(s); **Not proved**
 - k. refused a direct instruction from the Clinical Director to attend the WHO Meeting on 3 June 2019; **Determined and found proved**
 - l. on or around 3 June 2019 stated to the Clinical Director ‘if I am rostered with someone I don’t like I will go on emergency leave’. **Not proved**
 - m. failed to complete allocated lists on:
 - i. 28 May 2019; **Determined and found proved**
 - ii. 3 June 2019; **Determined and found proved**
 - n. on 2 July 2019 sent a rude and/or threatening email to the Medical Director of the Trust stating ‘*I am hoping to work independently from 15 July. Please don’t complicate things any further which may result in me taking legal action against your excesses and the Trust*’ ; **Determined and found proved**
2. You failed to comply with the requirement of a return to work programme as set out in a letter to you dated 3 May 2019 in that you did not make a written apology to Mr B and Ms C. **Determined and found proved**
3. Between 9-13 September 2021 whilst working at Tameside NHS Hospital Trust (‘Tameside Trust’) you behaved inappropriately in that you:
- a. refused to:
 - i. do pre-assessment and documentation in notes; **Not proved**
 - ii. go to wards to assess patients; **Not proved**
 - iii. attend/answer bleeps; **Not proved**

- b. stated that ‘a Consultant should hold the bleep’, or words to that effect; **Not proved**
 - c. raised your voice to a number of colleagues stating words to the effect of;
 - i. ‘why did you tell me they were in theatre 1 when you are all in here eating breakfast. You are all rude and bad mannered’; **Determined and found proved**
 - ii. ‘you are all rude’; **Determined and found proved**
 - iii. ‘how dare you make me walk all the way round to theatre for a pointless journey’; **Determined and found proved**
 - iv. ‘you wasted my time and effort’; **Determined and found proved**
 - d. refused the Surgeon, Mr D’s request to wrap a patient’s arms by his side; **Not proved**
 - e. argued with Mr D about what procedure he was doing; **Not proved**
 - f. stated to Ms E words to the effect of:
 - i. ‘I know ladies like an older man with experience’; **Determined and found proved**
 - ii. ‘I like younger ladies’; **Determined and found proved**
 - iii. ‘Younger ladies like older men with experience in loving’; **Determined and found proved**
 - iv. ‘I am experienced in loving younger ladies’; **Determined and found proved**
 - v. ‘younger boys/men only do a quick one and just leave but I know how to love them properly’; **Determined and found proved**
 - g. touched Ms E’s arm; **Not proved**
 - h. stated to Ms E and Ms F ‘ladies have bigger throats than you think, they can put big things down there, you know what I mean’, or words to that effect. **Determined and found proved**
4. Your actions were sexually motivated as set out at paragraphs:
- a. 1.c.ii.; **Not proved**
 - b. 1.f.; **Not proved**
 - c. 3.f.; **Not proved**

- d. 3.g.; **Not proved**
- e. 3.h. **Not proved**

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

Determination on Impairment - 05/05/2023

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. No additional evidence was provided to the Tribunal at this stage of the proceedings.

Communications with Dr Siddiqui

3. Following its determination on the facts, the Tribunal asked that an update was emailed to Dr Siddiqui, which explained that the hearing would now move to a second stage. The Tribunal explained that at the next stage, it was required to consider whether any of the facts found proved were serious enough to amount to misconduct and, if so, whether Dr Siddiqui's fitness to practise is currently impaired by such misconduct.

4. The Tribunal further explained that it would reconvene on Wednesday 3 May at 12:00, at which time if he wished to do so, Dr Siddiqui would have the opportunity to listen to Ms Jones' submissions on the issues of misconduct and impairment on behalf of the GMC and then to make his own submissions to the Tribunal.

5. On 3 May 2023 at 10:54 am Dr Siddiqui emailed his response in the following terms:

"Can you please inform the Tribunal that this whole exercise XXX and I will find it extremely difficult to sit through another stage and listen to all that will be said and repeated again. I have said what I wanted to say, and it's up to the Tribunal to make its final judgment on my fitness to practice."

Submissions

On Behalf of the GMC

6. Ms Jones submitted that the Tribunal, in reaching a decision on impairment, should bear in mind the overarching objective as set out in section 11(A) of the Medical Act 1983 which is:

- to protect and 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 the medical profession.

7. Ms Jones submitted that a finding of impairment is necessary to uphold the overarching objective and added that the authorities make clear that the Tribunal must apply a two-stage test. First it must assess whether the facts found proved amount to misconduct and, secondly, if it finds misconduct, it must determine whether Dr Siddiqui's fitness to practise is currently impaired as a result.

8. Ms Jones submitted that as per the cases of *Martin v GMC 2011 E WHC 3204 admin* and *Roylance v GMC (No.2) [2000] 1 AC 311* that misconduct is an act or omission falling short of what would be appropriate in the circumstances. A failure in standards must be serious in order to amount to misconduct. She added that the seriousness of these acts should of course be given its proper weight. Ms Jones further submitted that this was a matter for the Tribunal's own determination.

9. Ms Jones submitted that paragraphs 1 and 35 – 38 of Good Medical Practice 2013 ('GMP') were engaged:

"1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law."

...

35 You must work collaboratively with colleagues, respecting their skills and contributions.

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.

38 Patient safety may be affected if there is not enough medical cover. So you must take up any post you have formally accepted, and work your contractual notice period before leaving a job, unless the employer has reasonable time to make other arrangements.”

10. Ms Jones added that in relation to paragraph 36 of GMP that the behaviour of Dr Siddiqui was not demonstrative of a doctor treating his colleagues fairly and with respect.
11. Ms Jones said in relation to paragraph 37 of GMP that it was a doctor’s duty to be aware of how their behaviour may influence others within and outside the team and that he had shown a lack of awareness in his evidence at the facts stage, given the repeated nature of this behaviour and the impact it had on other people.
12. Ms Jones submitted in relation to paragraph 38 of GMP, that the Tribunal may find it engaged due to Dr Siddiqui’s failure to comply with the return-to-work programme, which was put in place to ensure patient safety. She added that Dr Siddiqui refused to comply with that programme and, although he was supernumerary and his conduct did not impact patients directly, it was put in place to ensure he was safe to practise. He had refused to work with a large number of consultant colleagues, refused the instruction of his Clinical Director, and refused to write the two apologies, requirements he had agreed to when he accepted the return-to-work programme.
13. Ms Jones submitted that there was concerning pattern of inappropriate behaviour toward a variety of colleagues over a significant period of time. She said this took place in different places, both at times of significant stress in wards and theatres, but also in office and staff room settings when there was little to no stress.
14. Ms Jones submitted that Dr Siddiqui demonstrated a concerning propensity to behave inappropriately towards junior colleagues, and those he perceived to be less important than him. He had demonstrated a lack of respect for his colleagues.
15. Ms Jones submitted that Dr Siddiqui appears to show a lack of awareness about how his behaviour influenced and impacted others. She added that he lacked awareness of the potential impact on patient safety that his failure to engage with his return-to-work plan could have had. Ms Jones added that Dr Siddiqui’s refusals regarding his return-to-work plan were an obstacle to the goal set by the Trust, which was to get him back to work safely.
16. Ms Jones submitted that the facts found proved amounted to a breach of a fundamental tenet of the profession, namely the requirement under paragraph 1 of GMP, to establish and maintain good relationships with colleagues. In her submission, Ms Jones said that the Tribunal could conclude that Dr Siddiqui’s conduct had been serious and amounted to misconduct.
17. Considering impairment, Ms Jones submitted that Dr Siddiqui had brought the profession into disrepute and had breached one of the fundamental tenets of the profession.

She said that Dr Siddiqui abused his senior position as a doctor and that Dr Siddiqui had been belittling, intimidating, rude and inappropriate towards colleagues. Ms Jones added that this misconduct had brought the profession into disrepute.

18. Ms Jones suggested that the Tribunal may find that Dr Siddiqui's conduct posed an indirect risk to patient safety, especially with Dr Siddiqui's refusal to engage with his return-to-work programme. She invited the Tribunal to consider whether this was insightful on the part of someone who needed to be able to show that he was safe to return to continue independent practice after many months away. Further, Dr Siddiqui had returned to on-call work at Tameside Trust when he had not worked for many months.

19. Ms Jones submitted that Dr Siddiqui's insight was partial at best as he minimised at times the impact of his behaviour towards others, and he did not appear to demonstrate an understanding of why his behaviour was inappropriate. Ms Jones added that Dr Siddiqui, at times, did not appear to take concerns raised seriously.

20. Ms Jones reminded the Tribunal that its current risk assessment involved it looking back as well as forward and assessing the likelihood of repetition. The Tribunal had not had submissions from Dr Siddiqui about his insight. However, Ms Jones said, it could assess what Dr Siddiqui had said in evidence. Although he had admitted some of the behaviours, he minimised the impact of his behaviour on others and did not demonstrate an awareness of the inappropriateness of his behaviour. Further, he had not taken the concerns raised with him seriously, which was demonstrated by his behaviour later in a similar manner at Tameside Trust. All of this, in the GMC's submission demonstrated a lack of insight.

21. Ms Jones submitted that the Tribunal had seen no evidence of learning and that although he had attended a communications course, he repeated his behaviour after he had undertaken the course. Ms Jones invited the Tribunal to find Dr Siddiqui's fitness to be currently impaired as he had clearly brought the profession into disrepute. In her submission, a finding of impairment was needed to uphold professional standards and public confidence in the profession.

Dr Siddiqui

22. Dr Siddiqui did not attend or make any submissions to the Tribunal.

The Tribunal's Approach

23. 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.

24. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted. First whether the facts found proved were a serious failure to meet the appropriate

standard of conduct so as to amount to misconduct. Then whether that finding of misconduct could lead to a finding of impairment.

25. The Tribunal must determine whether Dr Siddiqui's fitness to practise is impaired today, taking into account Dr Siddiqui's 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.

The Tribunal's Determination on Impairment

Misconduct

26. The Tribunal considered Dr Siddiqui's misconduct, based on the facts it had found proved as set out in the determination on the facts. It was of the view that it was appropriate to group specific paragraphs of the Allegation together for its consideration of misconduct because, for example they related to a specific incident, a witness or matter.

27. The Tribunal considered the issue of misconduct in relation to the following paragraph(s) of the Allegation found proved:

- 1(a);
- 1(b)(i), (ii) and (iv);
- 1(c)(i)(2), 1(d), 1(e)(i) and 1(g);
- 1(c)(ii) and 1(f);
- 1(h), 1(k), 1(m), 1(n) and 2;
- 3(c); and
- 3(f) and 3(h).

Paragraph 1(a)

28. The Tribunal had found that the note Dr Siddiqui had put up was inappropriate. In the Tribunal's view it was neither respectful of colleagues (paragraph 36 of GMP) nor demonstrated an awareness of the effect of his behaviour on others within and outside of the team (p. 37 of GMP). As the Tribunal had already said in its earlier determination, the note could be seen by those familiar with the Trust and those new to the department.

29. The Tribunal considered how a colleague may react if they had seen this note on a wall. Whilst it considered the note to be undoubtedly inappropriate, it was of the view that the general reference to someone putting a locker in the place being 'challenged' by the author, was likely to come across as 'petty' or 'childish' rather than a serious threat. For the Tribunal, this was particularly the case when it related to what it considered may be a relatively trivial matter to many employees, in the context of the running of a busy operating department. The note was not specific about the nature of any challenge or directed at any specific individual. The Tribunal was of the view that an informed colleague may see such a

note on a wall as irrelevant, if not even humorous, in the context of the other serious matters going on in the department.

30. The Tribunal determined that, whilst it was not respectful and was inappropriate, Dr Siddiqui's conduct in putting up the note was not so serious as to amount to misconduct.

Paragraph 1(b)(i), (ii) and (iv)

31. The Tribunal considered whether there had been misconduct concerning the facts found proved as they related to and/or arose from the evidence of Ms A.

32. The Tribunal reminded itself of the particulars of this allegation. It noted that it had found proved that Dr Siddiqui had shouted and pointed his finger at Ms A and told her that every time she put a locker in his place he was going to move it.

33. The Tribunal had heard from Dr Siddiqui that he said he has a loud voice due to having to adapt his speaking voice since moving to the UK in order to be understood. Nevertheless, the Tribunal had found that he had shouted. The Tribunal was of the view, that whilst inappropriate of Dr Siddiqui to treat a colleague in this way, his 'threat' was to move the locker if it was put in his place, rather than being a threat to Ms A herself. The Tribunal acknowledged that Dr Siddiqui's conduct had made Ms A uncomfortable and did not treat her fairly and with respect as a colleague (paragraph 36 of GMP). Again, it considered Dr Siddiqui's conduct over the lockers to be petty, immature and not appropriate for someone of his seniority. However, the Tribunal was not convinced that his actions were serious so as to amount to misconduct.

Paragraphs 1(c)(i)(2), 1(d), 1(e)(i) and 1(g)

34. The Tribunal considered whether there had been misconduct concerning the facts found proved as they related to and/or arose from the evidence of Mr B (and Ms C to the extent her evidence related to Mr B).

35. The Tribunal first considered paragraph 1(c)(i)(2) of the Allegation. The tribunal noted that this had taken place in circumstances in which Dr Siddiqui was caring for an extremely ill patient in A&E, who was both intubated and ventilated. He was anxious and stressed about the patient and their urgent transfer to the ITU. It was common ground that there had been delays to the transfer arising from the porters' workload that day. In the Tribunal's view, it was undoubtedly inappropriate that a doctor should be rude and shout at a porter for the 'hold up'. However, whilst disrespectful, in the middle of a stressful situation during the care of a very unwell patient, the Tribunal was not satisfied that such conduct was so serious to amount to misconduct.

36. With regard to paragraphs 1(d), 1(e)(i) and 1(g), the Tribunal noted that Dr Siddiqui may have been irritated, even annoyed, by Mr B telling him that he could not get into the lift. That may have been a prompt for Dr Siddiqui to make his additional comments about putting in a complaint about him on that occasion. However, in oral evidence, Dr Siddiqui volunteered that he had been deliberately 'goaded' Mr B about his original complaint. On 16

and 17 June this was not during a period of heightened pressure in relation to patient care for Dr Siddiqui. On 17 June 2018, this did take place in front of a patient.

37. The Tribunal noted that the use of the term ‘goading’ indicated an element of intimidation or an attempt to influence or prevent a colleague from submitting a complaint. For the Tribunal, the term betrayed what was in Dr Siddiqui’s mind. It also took place in a modern workplace environment where responsible employers try to encourage employees to raise legitimate concerns. The Tribunal considered paragraphs 1, 36 and 37 of GMP to be engaged. As such, the Tribunal found that as well as being unfair to and disrespectful of Mr B and his skills and contribution, it was conduct that was serious and was misconduct.

Paragraphs 1(c)(ii) and 1(f)

38. The Tribunal considered whether there had been misconduct concerning the facts found proved as they related to and/or arose from the evidence of Ms C. The Tribunal noted that it had set out the relevant context for paragraphs 1(c)(ii) and 1(f) in its facts determination. In relation to these paragraphs the Tribunal had not found Dr Siddiqui’s behaviour to be sexually motivated. It reminded itself that Dr Siddiqui had been trying to ‘break the ice’ between himself and Ms C. Having considered all of the evidence, the Tribunal was satisfied that in the circumstances in which the comments were made, although inappropriate, ill-judged and disrespectful of Ms C, they were not sufficiently serious as to amount to misconduct.

Paragraphs 1(h), 1(k), 1(m), 1(n) and 2

39. The Tribunal had grouped its consideration of misconduct in relation to these paragraphs of the Allegation as they all related in some way to Dr Siddiqui’s return-to-work programme put in place by the Trust.

40. The Tribunal noted that Dr Siddiqui’s refusal of Dr G’s instruction (paragraph 1(k)) and failure to complete allocated lists (paragraph 1(m)) arose in consequence of his conduct under paragraph 1(h), namely his refusal to work with at least 11 out of 26 consultant colleagues. Paragraph 2 of the Allegation concerned Dr Siddiqui’s refusal to comply with a specific provision of the return-to-work programme after he had initially agreed to the programme, to comply with it and to comply with that specific provision.

41. The Tribunal noted that the return-to-work programme was put in place to ensure that Dr Siddiqui was clinically competent and was for his own benefit as well as to ensure the safety of patients. The Tribunal was firmly of the view that the return-to-work programme was fair, reasonable and justified on the part of the Trust. It noted that Dr G had generally been satisfied with Dr Siddiqui’s compliance with the return-to-work programme, but for the important refusal to work with at least 11 of 26 consultant colleagues.

42. The Tribunal noted that the refusal to work with at least 11 out of 26 made Dr Siddiqui’s observation by consultants, to provide feedback during his return-to-work programme, unworkable. Further, in its view, the refusal was unreasonable and inappropriate, showed a lack of respect for those trying to manage the department, and

betrayed a lack of awareness of how such behaviour would impact others. The consequent refusal of a direct instruction from Dr Siddiqui's clinical director and failure to complete anaesthetic lists to which he was allocated perpetuated and exacerbated the situation.

43. In addition, Dr Siddiqui's refusal to make the written apologies required under the return-to-work programme, to which he had originally agreed, was in the Tribunal's view inexcusable. It would have required very little effort on Dr Siddiqui's part to comply.

44. The Tribunal considered that paragraphs 1, 35 and 37 of GMP were engaged in relation to these paragraphs of the Allegation. The Tribunal was satisfied that Dr Siddiqui's conduct under paragraphs 1(h), 1(k), 1(m), and 2 of the Allegation fell below the standards expected of him and was serious. As such it determined that his conduct amounted to misconduct.

45. In relation to paragraph 1(n) of the Allegation, the Tribunal noted the circumstances under which this email had been sent. It had taken place at time when Dr Siddiqui was XXX. It also seemed to have arisen as a result of a misunderstanding between Dr Siddiqui and the Medical Director as a consequence of their preceding emails. Dr Siddiqui said he had meant that he wished to undertake the waiting list initiative shifts when he had returned to independent practice, which he anticipated would be after 15 July 2019. The Medical Director had believed Dr Siddiqui was making the request for the period under which he was still subject to the return-to-work programme.

46. In oral evidence Dr Siddiqui had also explained that he had immediately regretted sending the email, had wanted to recall it, but had been unable to do so. The Tribunal considered the email to be inappropriate and disrespectful of the Medical Director. Dr Siddiqui had referred to possible legal recourse, which then the Tribunal acknowledged was something he would have been entitled to follow in due course if matters warranted it. In all the circumstances, the Tribunal was of the view that Dr Siddiqui's conduct in sending the email was not so serious as to amount to misconduct.

Paragraph 3(c)

47. The Tribunal noted that Dr Siddiqui had raised his voice to colleagues but noted that this was in context of misunderstanding a situation. He had told the Tribunal in evidence that he believed the staff had sent him on a 'wild goose chase'. The Tribunal had found Dr Siddiqui's behaviour to be inappropriate and it also considered it to be disrespectful and non-collaborative, particularly when Dr Siddiqui was new to the Trust and therefore the team, that weekend. However, Ms E had been clear in her evidence that Dr Siddiqui had apologised soon afterwards, for his earlier behaviour towards those to whom he had raised his voice.

48. In all of this context, the Tribunal was satisfied that Dr Siddiqui's behaviour was not so serious as to amount to misconduct.

3(f) and 3(h)

49. The Tribunal considered if there was any misconduct in regard to the particulars of paragraphs 3(f) and 3(h) of the Allegation. Again, the Tribunal noted that it had not found Dr Siddiqui's conduct to be sexually motivated. The Tribunal had found that the comments were unacceptable and inappropriate. For the Tribunal, the comments were clearly disrespectful towards Ms E (and Mr F in relation to paragraph 3(h)) as colleagues. The comments had made Ms E feel very uncomfortable, and distressed, such that she reported the behaviour to senior colleagues who told her to document it formally. She did so soon afterwards.

50. The Tribunal noted that Dr Siddiqui said that 'dirty jokes' were made in the NHS in person and via WhatsApp, but it also noted that those jokes may have been within the context/safety of familiarity between the individuals involved. The situation was different here; Dr Siddiqui and Ms E had just met that day and were therefore working with each other for the first time.

51. The Tribunal had made clear in its facts determination that it believed this to have been a crass, ill-judged attempt by Dr Siddiqui to be rude, in a joking way, in conversation with Ms E. However, the comments were made to a younger female colleague who Dr Siddiqui didn't know, in the absence of any prior clues from her about whether she was tolerant of such comments. The Tribunal was of the view that employees have a fundamental right to work without being made to feel uncomfortable in this way.

52. The Tribunal noted that Ms E had said that Dr Siddiqui told her, after the incidents, that he was not being personal and if he had offended her, it was just the way he was, she should not take it personally. Although an attempt at some sort of apology, the Tribunal was of the view that this really just put the onus on Ms E not to interpret the comments personally and did not form an expression of remorse on the part of Dr Siddiqui.

53. The Tribunal considered that paragraphs 1, 36 and 37 of GMP were engaged in relation to these paragraphs of the Allegation. In all of the circumstances, the Tribunal was satisfied that Dr Siddiqui's behaviour under paragraphs 3(f) and (h) of the Allegation was a serious failure against the standards expected of him. As such it determined that this behaviour amounted to misconduct.

Impairment

54. Having found misconduct in relation to paragraphs 1(d), 1(e)(i), 1(g), 1(h), 1(k), 1(m), 2, 3(f) and 3(h) of the Allegation, the Tribunal went on to consider whether Dr Siddiqui's fitness to practise is currently impaired.

55. The Tribunal first considered the issue of remediation. It noted that behavioural conduct such as has been found in these proceedings may be remedied. It noted that Dr Siddiqui and Dr G confirmed that Dr Siddiqui had undertaken a communications course during his time at the Trust. However, it also noted that a number of the Allegations in respect of which misconduct had been found occurred after that course. Otherwise, the Tribunal had not seen any evidence of remediation.

56. The Tribunal noted the supportive letter from Mr N but noted this largely reflected Dr Siddiqui's good clinical work and proactive clinical approach over a specific three-day period at Tameside Trust. Further, the Tribunal noted that Dr Siddiqui's clinical competence had never been in question in these proceedings, other than to the extent the Trust had been trying to ensure that competence after a long period of absence, through the return-to-work programme.

57. The Tribunal found Dr Siddiqui to be remorseful during his oral evidence and noted that he had offered an apology before the Tribunal, which it acknowledged as genuine and sincere. Dr Siddiqui had expressed his remorse at how he had treated Mr B, someone he had considered to be a work friend over many years and with whom he had shared a laugh and joke. He had also expressed his remorse over his refusal to work with so many consultant colleagues at the Trust. The Tribunal also noted that Dr Siddiqui seemed to feel aggrieved at the way he had been treated by the Trust and may have felt somewhat undervalued by colleagues given his years of experience.

58. Although it had heard from Dr Siddiqui of his remorse, the Tribunal was concerned that it had neither seen nor heard detail of Dr Siddiqui's reflection on his conduct and its impact on his colleagues and on the legitimate expectations of the Trust and Tameside Trust as employers and as operators of NHS services. This was the case in relation to his refusals and non-compliance with the return-to-work programme at the Trust. In addition, it was also significantly the case in relation to his comments to Ms E, a younger female colleague on the first day they had ever worked together. The Tribunal had seen no reflection of the inappropriateness of such comments in the workplace and the impact on those on the 'receiving end' of them. In this context, the Tribunal could not identify evidence on which it could be satisfied that there would be no repetition of this sort of conduct.

59. The Tribunal considered Dr Siddiqui's lack of cooperation with a fair and reasonable return-to-work programme, put in place in his best interests but, importantly, in order to protect patients, to be demonstrative of inadequate insight into his conduct. Dr Siddiqui appeared to the Tribunal not to appreciate the importance of why it was necessary for him to complete a return-to-work programme, given that he did not have to complete one following a previous period of absence from the Trust. It was of the view that this suggested a lack of appreciation of the importance of patient safety and the importance of demonstrating his clinical competence to himself and his colleagues. Patient safety could be impacted if a doctor returned to practice following a lengthy period of absence without any assessment that their skills remained up to date and of the requisite standard.

60. The Tribunal was additionally concerned that Dr Siddiqui had not demonstrated his true understanding and appreciation of the impact on Ms E of the comments he made to her.

61. The Tribunal was of the view that Dr Siddiqui's comments to Ms E were such that his conduct brought the profession into disrepute. In light of that the Tribunal considered that the third limb of the statutory overarching objective was engaged.

62. The Tribunal also considered whether confidence in the medical profession would be undermined should there be a finding of no impairment in this case. Given the nature of the misconduct in paragraphs 1(h), 1(k), 1(m), 2, 3(f) and 3(h), the Tribunal was satisfied that public confidence in the profession would be undermined were there to be a finding of no impairment. In the Tribunal's view the second limb of the statutory overarching objective was also engaged.

63. Accordingly, for all the reasons it had set out, the Tribunal determined that Dr Siddiqui's fitness to practise is impaired by reason of his misconduct.

Determination on Sanction - 09/05/2023

1. Having determined that Dr Siddiqui's fitness to practise is impaired by reason of his misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.
2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.
3. The Tribunal received documentary evidence from the GMC of the 'Minutes of Investigation Committee's (Oral) hearing' which took place on 25 January 2017 and at which Dr Siddiqui had been issued with a warning.

Submissions

On Behalf of the GMC

4. Ms Jones submitted that suspension was the most appropriate sanction, given the Tribunal's findings at the impairment stage.
5. Ms Jones reminded the Tribunal that the matter of sanction was one for the Tribunal alone in the exercise of its own judgement and she took the Tribunal through the general principles set out in the Sanctions Guidance ('SG'). Ms Jones said that paragraph 9 of the SG sets out the expected standards and that paragraph 10a is particularly relevant to this case:

"9 Good medical practice and its explanatory guidance define what makes a good doctor by setting out the professional values, knowledge, skills and behaviours required of all doctors working in the UK. A wide range of people, including patients, doctors, employers and educators, are consulted in the development of the standards and guidance.

10 Good medical practice, covers the fundamental aspects of a doctor's role, including:

a working in partnership with patients and treating them with respect, and establishing and maintaining good relationships with patients and colleagues (including those who are not doctors)”

6. Ms Jones said that paragraphs 14 and 15 deal with the reason that sanctions are imposed, which is in order to further the overarching objective. She pointed out that paragraph 16 states that the intention of sanctions is not to punish or discipline, but it is accepted that they may have a punitive effect.

7. Ms Jones submitted that the Tribunal should be proportionate in its approach, which meant doing no more than necessary, and it should consider mitigating factors (paragraph 24 onwards of the SG) and aggravating factors (paragraph 50 onwards of the SG).

8. With regard to aggravating factors, Ms Jones submitted that paragraphs 51 and 52 a – c of SG were relevant:

“51 It is important for tribunals to consider insight, or lack of, when determining sanctions. It is particularly important in cases where the doctor and the GMC agree undertakings or the tribunal imposes conditions. The tribunal must be assured that this approach adequately protects patients, in that the doctor has recognised the steps they need to take to limit their practice to remediate.

52 A doctor is likely to lack insight if they:

a refuse to apologise or accept their mistakes

b promise to remediate, but fail to take appropriate steps, or only do so when prompted immediately before or during the hearing

c do not demonstrate the timely development of insight.”

Ms Jones added that Dr Siddiqui had expressed remorse but he had only done so when prompted by this hearing.

9. Ms Jones submitted that although Dr Siddiqui had undertaken a communications course any beneficial effect had been undermined as Dr Siddiqui went on to commit further acts of misconduct. She added that Dr Siddiqui has not demonstrated the timely development of insight and has not developed full insight.

10. Ms Jones submitted that paragraph 54 of the SG was relevant, not because there had been any previous finding of impairment but, by analogy, because of Dr Siddiqui’s previous warning.

“54 Where the GMC, or another regulator, has previously made findings of impaired fitness to practise and imposed a sanction on the doctor’s registration, the tribunal may wish to consider this as an aggravating factor in relation to the case before it.”

11. Ms Jones submitted that paragraph 55b was engaged because it deals with failure to work collaboratively with colleagues:

“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)”

She added that this should be an aggravating factor. She further added that paragraphs 136 – 138, which paragraph 55b of the SG refers, are also engaged as they set out the approach to be taken where a doctor has been found to have failed to work collaboratively with colleagues:

“Failure to work collaboratively with colleagues

136 Doctors are expected to work collaboratively with colleagues to maintain or improve patient care. These duties are set out in paragraphs 35–37 of Good medical practice.

137 Colleagues include anyone a doctor works with, whether or not they are also doctors.

138 More serious outcomes are likely to be appropriate if there are serious findings that involve: a bullying b sexual harassment c physical violence towards colleagues d unlawful discrimination (see paragraphs 139–141).”

12. Ms Jones submitted that doctors are expected to work collaboratively with colleagues to maintain or improve patient care, and those duties are set out in paragraphs 35 to 37 of GMP. She added that colleagues include anyone a doctor works with, whether or not they are also a doctor. She further added that this was especially relevant to this case given the Tribunal’s finding in relation to more junior members of staff and Dr Siddiqui’s misconduct in respect of those colleagues.

13. Ms Jones submitted that paragraph 138 of SG suggests that more serious outcomes are likely to be appropriate if there are serious findings that involve bullying. She submitted that the goading of Mr B, which the Tribunal found proved had been repeated, albeit over a short period. Ms Jones submitted that this had the hallmarks of bullying and appears to have been an abuse of his position as a senior doctor and his use of this status to make more junior members of staff feel very uncomfortable.

14. Ms Jones submitted that in this case there were no exceptional circumstances that would justify no action, that the matter of undertakings did not arise here and that conditions were not proportionate to address the concerns raised. Further, this case did not concern health, competence or use of English language.

15. Ms Jones submitted that paragraphs 91, 92, 97a, were clearly engaged and invited the Tribunal to consider the extent to which it also may consider paragraphs 97f and 97g were also engaged:

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. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

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 (i.e., for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

“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.

b In cases involving deficient performance where there is a risk to patient safety if the doctor’s registration is not suspended and where the doctor demonstrates potential for remediation or retraining.

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.”

16. In expressing the GMC’s submission that suspension was the proportionate sanction, Ms Jones said that Dr Siddiqui’s behaviour was not incompatible with continued registration. Albeit that there had been a serious departure from the standards set out in GMP, a period of suspension was, in the view of the GMC, appropriate and proportionate in the circumstances.

Dr Siddiqui

16. Dr Siddiqui was not present and not represented during the sanctions stage of the proceedings and did not provide any written submissions.

The Tribunal's Determination on Sanction

17. The Tribunal accepted the legal advice of the LQC. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement.

18. In reaching its decision, the Tribunal has taken account of the SG and GMP. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

19. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Siddiqui's interests with the public interest. It has also considered the statutory overarching objective.

20. The Tribunal has already given detailed determinations on facts and impairment and has taken those matters into account during its deliberations on sanction.

Mitigating factors

21. In mitigation, the Tribunal noted that Dr Siddiqui had, in his oral evidence particularly, expressed his remorse in relation to his conduct towards Mr B and his refusal to work with so many consultant anaesthetists at the Trust. The Tribunal was of the view that Dr Siddiqui had not given it any reason to doubt that those expressions of remorse were genuine and sincere.

Aggravating factors

22. The Tribunal went on to consider the aggravating features.

23. Upon conclusion of the impairment stage of these proceedings, the GMC provided to the Tribunal, a copy of a warning issued to Dr Siddiqui by a GMC Investigation Committee at a hearing held on 25 January 2017. The Tribunal noted that one of the reasons for the issue of the warning was that Dr Siddiqui's conduct had fallen below the standard expected of doctors under paragraph 35 of GMP, namely working collaboratively with colleagues and respecting their skills and contributions.

24. The Tribunal was concerned that the matters in respect of which it had found misconduct and current impairment of Dr Siddiqui's fitness to practise, had taken place during the period the warning was in force. Additionally, this Tribunal's earlier findings had also found that Dr Siddiqui had failed in his obligations to work collaboratively with colleagues. The Tribunal was firm in its view that it was an aggravating feature of this case that Dr Siddiqui had demonstrated similar failings to those identified in the warning, whilst the warning was still in effect.

25. Whilst the Tribunal acknowledged that Dr Siddiqui had demonstrated some insight into his conduct, this was limited in the Tribunal's view. It was concerned that Dr Siddiqui failed to appreciate that the entrenched position he had adopted in relation to refusing to work with eleven of his consultant colleagues made his return-to-work programme unmanageable for the Trust. In the Tribunal's view, compromising his return-to-work programme in this way demonstrated his limited insight into the need to address the potential de-skilling that can occur, of any clinician however senior, through long periods of absence from practice. In turn Dr Siddiqui had not demonstrated his understanding of the importance of a return-to-work programme for the purposes of patient protection, or his own best interests, in such circumstances.

26. For the Tribunal, Dr Siddiqui had also shown his lack of insight into his conduct towards Ms E – his focus afterwards had been on telling Ms E not to take his comments personally, rather than on his own conduct in making such inappropriate comments in the first place.

27. The Tribunal was therefore satisfied that the lack of development of timely insight by Dr Siddiqui was a further aggravating factor in this case.

28. The Tribunal was mindful of the provisions of paragraph 55b of the SG, which related to collaborative working. Its earlier findings had explained that there had been a failure on Dr Siddiqui's part in this regard and the Tribunal considered this to be a further aggravating factor in this case.

Sanction

29. The Tribunal considered each sanction in ascending order of seriousness starting with the least restrictive.

No Action

30. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude the case by taking no action.

31. The Tribunal determined that there were no exceptional circumstances to justify taking no action in this case and that to do so would be insufficient and inappropriate in light of the nature and gravity of Dr Siddiqui's misconduct.

Conditions

32. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Siddiqui's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

33. The Tribunal could not identify conditions which would be workable or appropriate in addressing the misconduct in question. Dr Siddiqui's actions were related to his conduct towards colleagues. His misconduct had breached several principles of GMP, had brought the profession into disrepute, and had adversely affected public confidence in the profession and the maintenance of appropriate standards. In the Tribunal's view a period of conditional registration would not protect public confidence in the medical profession or uphold proper standards of conduct and behaviour.

34. The Tribunal was also concerned that Dr Siddiqui had repeated earlier failings, identified in the Investigation Committee warning of 25 January 2017, during the period in which the warning remained in force. In light of that, it could not be satisfied that Dr Siddiqui would have appropriate regard to his compliance with conditions.

35. The Tribunal determined that the imposition of conditions on Dr Siddiqui's registration would be inappropriate and not proportionate given the seriousness and nature of Dr Siddiqui's misconduct.

Suspension

36. The Tribunal then went on to consider whether imposing a period of suspension on Dr Siddiqui's registration would be appropriate and proportionate.

37. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbecoming a doctor.

38. The Tribunal took account of the SG in relation to suspension, including particularly paragraphs 92, 97(a), 97(f) and 97(g), the text of which is set out earlier in this determination. It found all these paragraphs to be engaged in this case. As it had explained in its earlier determinations, the Tribunal was very concerned by Dr Siddiqui's 'goadings' of his colleague Mr B. For the Tribunal, this sort of intimidatory conduct carried with it hallmarks of bullying and, in the context of paragraph 138a of the SG, required a sanction sufficiently serious to mark, for the profession, the conduct as unacceptable and unworthy of a doctor.

39. With regard to repetition, there was no evidence before the Tribunal of any repetition of similar misconduct by Dr Siddiqui since the last of the incidents covered by the Allegation. The Tribunal noted that it had been made aware, by Dr Siddiqui, that he was currently suspended from practise. Whilst that may mean that there had not been any workplace opportunity for repetition, the Tribunal was not aware of the period for which Dr Siddiqui had been suspended.

40. In relation to remediation, the Tribunal was of the view that the misconduct in respect of which it had found impairment was amenable to remediation if Dr Siddiqui chose to avail himself of appropriate courses and support on appropriate workplace conduct and communication.

41. The Tribunal had already said, in its determination on impairment, that it could not identify evidence on which it could be satisfied that there would be no repetition of this sort of conduct. The Tribunal did, however, believe that Dr Siddiqui had capacity to develop his insight, such that, with appropriate reflection he could demonstrate that the likelihood of him repeating his conduct had been eliminated.

42. Having formed the view that a period of suspension may be the appropriate and proportionate sanction in this case, the Tribunal considered the SG provisions on when erasure may be the appropriate sanction. It was satisfied that, although there had been a serious departure from the standards set out in GMP, Dr Siddiqui's conduct had not been such that it was incompatible with his continued registration as a doctor. In the Tribunal's view, it would be disproportionate in the circumstances to erase Dr Siddiqui's name from the medical register. It would also be inappropriate to deprive patients of the services of a competent experienced anaesthetist if Dr Siddiqui took the opportunity to remediate, and reflect on and demonstrate his understanding of the impact of his conduct.

43. The Tribunal acknowledged, and agreed with, Ms Jones' submission, on behalf of the GMC, that it would require a significant change in mindset on the part of Dr Siddiqui, to demonstrate his development of proper insight into his conduct and its impact on others. However, in the Tribunal's view the behaviour he had exhibited was capable of remediation and there was the prospect of the development of full insight if Dr Siddiqui chose to engage. It was satisfied that a period of suspension was both the appropriate and proportionate sanction in this case. It would promote and maintain public confidence in the profession and proper professional standards for the profession.

44. The Tribunal then went on to consider the appropriate length of the period of suspension. It was mindful that the period of suspension should recognise the seriousness of Dr Siddiqui's conduct. It should also be sufficient to put down a marker that such conduct is inappropriate and unacceptable on the part of a medical practitioner. The Tribunal determined that a period of six months' suspension would be an appropriate marker of the gravity with which it viewed Dr Siddiqui's conduct, would maintain public confidence in the profession and promote and maintain standards. It would also afford Dr Siddiqui sufficient time both for remediation and for careful reflection on his conduct to demonstrate his understanding of and insight into the inappropriateness of his behaviour and its impact on those affected. The Tribunal therefore determined that Dr Siddiqui's medical registration should be suspended for a period of six months.

45. The Tribunal determined to direct a review of Dr Siddiqui's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Siddiqui to demonstrate how he has remediated his misconduct and demonstrated his fully developed and insight into the findings of this Tribunal. It therefore may assist the reviewing Tribunal if Dr Siddiqui provides:

- evidence of any courses, and other activities, he has undertaken in order to demonstrate his remediation of concerns about his ability to work collaboratively with colleagues and his communications in the workplace;
- evidence of his reflections on the nature of his behaviour, the findings of this Tribunal and his understanding of the ways in which the workplace and colleagues have been impacted by his conduct;
- information that shows that Dr Siddiqui has kept his medical skills and knowledge up to date;
- any evidence relating to XXX to the extent he believes that they are relevant; and
- any other information that he considers will assist.

Determination on Immediate Order - 09/05/2023

218. Having determined that a 6-month suspension was the proportionate sanction the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Siddiqui's registration should be subject to an immediate order.

Submissions

On Behalf of the GMC

219. Ms Jones submitted that an immediate order was necessary in this case given the Tribunal's findings. She added that Dr Siddiqui is currently subject to an interim order of suspension which needs to be revoked. Ms Jones submitted that Dr Siddiqui has not worked for a long time and that this gave rise to a potential risk to patient safety. She added that it would not be appropriate for Dr Siddiqui to return to unrestricted medical practise during the appeal period.

Dr Siddiqui

220. Dr Siddiqui did not attend or make any submissions.

The Tribunal's Determination

221. The Tribunal balanced the public interest with Dr Siddiqui's own interests and concluded that it was necessary to impose an immediate order for the purpose of protecting public confidence in the profession. The Tribunal had identified serious failings and could not be assured that Dr Siddiqui's conduct would not be repeated in the absence of remediation and appropriate reflection. In such circumstances, the Tribunal was of the view that it would be inappropriate to return Dr Siddiqui to unrestricted practise.

222. Further the Tribunal noted that Dr Siddiqui had been suspended from practise for a considerable period of time. The Tribunal had not seen any evidence from Dr Siddiqui of continuing professional development he may have undertaken during his suspension.

223. The Tribunal determined to impose an immediate order of suspension on Dr Siddiqui's registration.

224. This means that Dr Siddiqui's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

225. The interim order of suspension is hereby revoked when the immediate order takes effect.

226. That concludes this case.

ANNEX A: Service and Proceeding in Absence – 03/05/2023

1. At the commencement of the hearing, Dr Siddiqui was neither present nor represented. Ms Jones, Counsel for the GMC, explained to the Tribunal that although Dr Siddiqui had expressed a desire to attend the hearing and had been provided with the relevant meeting invitations and links, he had reconsidered that decision in further email correspondence with the GMC.

2. Ms Jones said that Dr Siddiqui had explained that although he wished to cross-examine Ms E and to make submissions to the Tribunal, he was XXX and did not feel able to attend and participate in the whole proceedings.

3. Ms Jones further explained that because the paragraphs of the Allegation relating to Ms E's evidence concerned sexually motivated conduct, Ms E was to be treated as a vulnerable witness and could not be cross-examined directly by Dr Siddiqui unless she consented. If she did not provide consent, then MPTS would need to appoint Counsel to undertake the cross-examination on Dr Siddiqui's behalf.

4. The Tribunal was concerned about the reports of Dr Siddiqui's XXX, although it noted that it had not been provided with XXX in that regard. It was also concerned by remarks made by Dr Siddiqui about the role of the MPTS, with respect to the GMC, in his written response to his Rule 7 letter. It determined to request MPTS to email Dr Siddiqui on its behalf in the following terms:

“The Tribunal has asked whether you (Dr Siddiqui) would please consider attending the proceedings, as early as is convenient during the day today. While there is no obligation on you to do so, the Tribunal would like the opportunity to explain to you:

- *its role as an independent tribunal, which undertakes its fair and objective assessment of the evidence wholly independent of the GMC, taking into account the principles of equality and diversity;*
- *the process the hearing will follow, and the opportunities afforded to you during the process to ask questions and put your case; and*
- *the rules that apply to the cross examination of vulnerable witnesses – specifically that cross examination of Ms E is not prevented but may need to be carried out by someone else on your behalf, rather than by you yourself.*

The Tribunal would be grateful for your earliest response. If it has not heard anything from you by end of today, the proceedings will recommence at 10:15 am on Tuesday 18 April 2023.”

5. Later on 17 April 2023, Dr Siddiqui attended the hearing, listened to the Legally Qualified Chair's ('LQC') explanation of the role of the Tribunal and the process it would follow and had a discussion with the Tribunal about his participation in the hearing. Dr

Siddiqui was again invited to provide XXX if he wished to do so. During his attendance Dr Siddiqui again expressed his desire to cross-examine Ms E and to make oral submissions to the Tribunal.

6. Although he had intended to attend the hearing the following day (Tuesday 18 April 2023) Dr Siddiqui did not participate. The Tribunal considered further correspondence from Dr Siddiqui to the GMC during the evening of 17 April 2023 as part of its consideration on service and proceeding in absence.

7. The Tribunal having heard from Dr Siddiqui and having regard to the relevant parts of the service and proceeding in absence bundle together with Ms Jones' submissions was satisfied that notice had been properly served on Dr Siddiqui, in accordance with Rules 15 and 40 of the Rules and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended).

Service

8. On 18 April 2023, Ms Jones, on behalf of the GMC made an application to proceed with the hearing in the absence of Dr Siddiqui pursuant to Rule 31.

9. Ms Jones submitted that notice had been properly served on Dr Siddiqui and that his attendance the previous day had demonstrated his awareness of the hearing and the nature of the Allegation. She submitted that Dr Siddiqui had not made a formal application to postpone/adjourn proceedings, had not presented XXX to suggest a postponement/adjournment was necessary and also said that it was in the public interest to proceed.

10. Having seen the 'service bundle' submitted by the GMC and having had a discussion with Dr Siddiqui the previous day, the Tribunal was satisfied that service had been effected appropriately in accordance with Rule 40.

Proceeding in Absence

11. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Siddiqui's absence pursuant to Rule 31 of the Rules. The Tribunal noted Dr Siddiqui's comments during the hearing and relevant statements he made in email correspondence with the GMC.

12. The Tribunal also considered Ms Jones' submissions for the GMC.

The Tribunal's Decision on Proceeding in Absence

13. The Tribunal noted that Dr Siddiqui had not made an application to adjourn the hearing and had not presented XXX to support an adjournment, although he had previously indicated a desire for a postponement of proceedings XXX. It also noted that Dr Siddiqui had

stated in his most recent correspondence with the GMC that he was not sure a postponement was in his best interests.

14. The Tribunal also noted that Dr Siddiqui said in his email to the GMC on 17 April 2023 that he would:

“... allow the panel members to decide how to proceed in my absence.”

15. The Tribunal balanced Dr Siddiqui’s interests with the public interest in proceedings such as these being conducted in an efficient and timely manner. It was of the view that it had no evidence that an adjournment, whether long or short, would result in Dr Siddiqui’s full participation. It had explained to Dr Siddiqui that if he chose to make submissions in due course, without earlier participation, he would lose the opportunity to hear answers given in oral evidence by GMC witnesses questioned by the Tribunal.

16. On balance, and in all of the circumstances of this case, the Tribunal was satisfied that there was no prejudice to Dr Siddiqui in continuing in his absence. The Tribunal acknowledged that it was not generally permissible for self-represented doctors to be selective about which parts of a hearing they participated in. However, in these unusual circumstances, in light of the serious allegations of sexually motivated conduct, and having spoken directly with Dr Siddiqui, the Tribunal determined that in the interests of fairness it could accommodate the cross examination of Ms E on Dr Siddiqui’s behalf and permit him to make submissions to the Tribunal in due course.

17. Balancing each of the considerations set out above, the Tribunal considered it appropriate to proceed in the absence of Dr Siddiqui and asked MPTS to send him the following email on 18 April 2023:

“Dr Siddiqui

The Tribunal has asked that this email is sent to you simply as an update. It understands, as you explained yesterday, that you may wish to participate in the proceedings at some point, if you feel well enough to do so.

The Tribunal:

- *today determined to proceed with the hearing in your absence;*
- *has heard the opening submissions and background to the case from the GMC;*
and
- *has some questions it wishes to ask:*
 - *Dr G. It will ask him those questions in oral evidence tomorrow (19 April 2023), commencing at 09:30.*
 - *Mr B (Thursday 20 April 2023, 14:00).*
 - *Dr H (Friday 21 April 2023, 14:00).*

The MPTS is arranging for a barrister to cross-examine Ms E, on your behalf, on Friday of this week (21 April 2023), commencing at 11:30.

There is no requirement that you reply to this email.”

18. The Tribunal determined to proceed in the absence of Dr Siddiqui, but to encourage him to join and participate in the hearing should he so decide.