PUBLIC RECORD

Dates: 02/12/2024 - 17/12/2024

Medical Practitioner's name:	Dr Omar AHMED
GMC reference number:	7515948
Primary medical qualification:	MB BCh 2011 Cairo University

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

Summary of outcome

No warning

Tribunal:

Legally Qualified Chair	Ms Chitra Karve
Lay Tribunal Member:	Mr Chris Weigh
Medical Tribunal Member:	Dr Jane Margetts

Tribunal Clerk:	Mr Sewa Singh

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Ceri Widdett, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 16/12/2024

Background

1. Dr Ahmed qualified as a doctor in 2011. At the time of the events giving rise to the allegations made against him, Dr Ahmed was on the GP Training Programme working at an ST1 level at the Field House Surgery ('the Practice') in Lincolnshire. The rest of Dr Ahmed's career history was taken from Dr Ahmed's own evidence. Prior to coming to the UK in 2015, Dr Ahmed worked as a doctor in Egypt. From 2015 to 2021, Dr Ahmed worked at various hospitals undertaking surgical and A&E roles, spending majority of his time in orthopaedics, in Nottingham, London and Lincolnshire. He then joined the GP Training Programme in August 2021 and then joined the Practice in February 2022.

2. The Allegation against Dr Ahmed can be summarised as that, between March and May 2022, he failed to provide adequate clinical care to three patients – Patient A, Patient B and Patient D. It is alleged that Dr Ahmed's failings related to history taking, communication, record keeping and examination. It is further alleged that Dr Ahmed made entries in the patients' medical records that were untrue and that in doing so his actions were dishonest.

The Outcome of Applications Made during the Facts Stage

3. The Tribunal refused the GMC's application, made pursuant to Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to admit Patient C's witness statement as hearsay evidence. The Tribunal's full decision on the application is included at Annex A. As a consequence of the Tribunal's decision, allegations relating to Patient C (Paragraphs 7 – 9 and 13c) were withdrawn.

4. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) to amend paragraphs 1bi, 1dii and 10ai. The Tribunal's full decision on the application is included at Annex B.

The Allegation and the Doctor's Response

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

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

Patient A

1. On 17 March 2022 you consulted Patient A and you failed to:

a. obtain an adequate history from Patient A as you did not obtain further information in relation to their mental health concerns to consider whether any further action and/or treatment was required;

To be determined

b. consider the significance of Patient A's reported symptoms regarding their:

i. being unable to eat ~~or drink~~;
(Amended under Rule 17(6))
To be determined

ii. having faecal incontinence;
To be determined

c. communicate the suspected diagnosis to Patient A;
To be determined

d. adequately record the consultation in Patient A's medical records in that you did not record that Patient A:

i. was struggling with their mental health;
To be determined

ii. was not eating ~~and drinking~~;
(Amended under Rule 17(6))
To be determined

iii. was having faecal incontinence.
To be determined

2. You recorded in Patient A's medical records that you carried out examinations of their:

a. cardiovascular and respiratory symptoms;
To be determined

b. calves.
To be determined

3. You knew that the recording you made as described at paragraph 2 was untrue because you had not performed those examinations.
To be determined

Patient B

4. On 24 March 2022 you consulted Patient B and you failed to:

a. adequately examine Patient B in that you did not undertake an examination of Patient B's:

i. shoulders;
To be determined

ii. wrist;
To be determined

iii. knees;
To be determined

iv. hips;
To be determined

b. communicate the suspected diagnosis to Patient B.
To be determined

5. You recorded in Patient B's medical records that you carried out an examination of their:

a. shoulders;
To be determined

b. wrist;
To be determined

c. knees;
To be determined

d. hips.
To be determined

6. You knew that the recording you made at paragraph 5 was untrue because you had not performed those examinations. To be determined

~~Patient C~~

~~7. On 28 April 2022 you consulted Patient C and you failed to:~~

~~a. obtain an adequate history in that you did not ask Patient C any questions about their medical history;~~

~~b. communicate the suspected diagnosis of an enlarged lymph node to Patient C.~~

~~8. You recorded in Patient C's medical records that Patient C had no:~~

~~a. previous breast problems;~~

~~b. fever;~~

~~c. loss of consciousness or dizziness.~~

~~9. You knew that the recording you made at paragraph 8 was untrue because you did not ask Patient C any questions regarding her medical history.~~
Withdrawn following a decision of the Tribunal in relation to a Rule 34(1) application

Patient D

10. On 23 May 2022 you consulted Patient D and you failed to:

a. obtain an adequate history in that you did not obtain information relating to the patient's axillary pain including the:

~~i. site of pain~~;
(Amended under Rule 17(6))

ii. presence/absence of swelling;
To be determined

iii. duration of symptoms;
To be determined

iv. exacerbating and relieving factors;
To be determined

v. range of movement of the arm;
To be determined

b. adequately examine Patient D in that you did not perform either:

i. a rectal examination; or
To be determined

ii. an assessment of the armpit;
To be determined

c. address Patient D's primary concern of armpit/shoulder pain;
To be determined

d. communicate the suspected diagnosis of impingement of the shoulder to Patient D; To be determined

e. adequately record the consultation in Patient D's medical

records in that you did not record any information about the presenting complaint of armpit/shoulder pain. To be determined

11. You recorded in Patient D's medical records that you carried out an abdominal examination. To be determined

12. You knew that the recording you made at paragraph 11 was untrue as you did not perform an abdominal examination. To be determined

13. Your actions as described at:

a. paragraph 2 were dishonest by reason of paragraph 3;
To be determined

b. paragraph 5 were dishonest by reason of paragraph 6;
To be determined

~~c. paragraph 8 were dishonest by reason of paragraph 9;~~
Withdrawn following the Tribunal's decision in relation to a Rule 34(1) application

d. paragraph 11 were dishonest by reason of paragraph 12.
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 Admitted Facts

6. None of the alleged facts were admitted.

The Facts to be Determined

7. In light of Dr Ahmed's response to the Allegation made against him, the Tribunal considered the disputed facts.

Witness Evidence

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

- Patient A, witness statement dated 15 November 2023;
- Patient B, witness statement dated 1 October 2023;
- Patient D, witness statement dated 25 September 2023;
- Dr E, witness statements dated 25 October 2023 and 24 September 2024;
- Dr F, witness statement dated 10 October 2023.

9. Dr Ahmed provided a Rule 7 Response and his Disclosure document, and also gave oral evidence at the hearing. Dr Ahmed did not provide a witness statement. He was self-represented.

Expert Witness Evidence

10. The Tribunal also received oral evidence from a GMC expert witness, Dr G, and his report dated 3 January 2024.

Documentary Evidence

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

- Patient B's complaint statement to Dr E;
- Patient D's medical records and details of his complaint;
- Email exchange between Dr E and her colleagues at the Practice;
- Notes of Dr E's conversation with Patient A;
- Patient A's medical records;
- Patient B's medical records;
- Dr Ahmed's Rule 7 Response dated 8 March 2024;
- Dr Ahmed's Disclosure document dated 16 October 2024;

12. After the Tribunal had retired to go into camera to deliberate the facts of the case, Dr Ahmed provided a copy of the Royal College of Emergency Medicine (RCEM) guidelines – updated 21 March 2024 which he referred to when he gave evidence to the Tribunal. The Tribunal considered this document but decided that it had no relevance to this particular case.

The Tribunal's Approach

13. The Tribunal accepted the Legally Qualified Chair's advice.

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

15. The Tribunal reminded itself that it must form its own judgment about the evidence presented to it.

16. Where a failure is alleged, as in some paragraphs in this case, such as a failure to adequately examine the patient, the Tribunal should first consider if there was a duty on the doctor in the circumstances to act in that manner. If there is a requirement to so act, it should then go on to consider if the doctor did, in fact, fail to do what was required of them.

17. The Tribunal noted the test for dishonesty as set out in ***Ivey v Genting Casinos (UK) Limited*** (t/as Crockfords Club) [2017] UKSC 67 in that it must,

> *'…first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts…[and] once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he had done is, by those standards, dishonest'*

18. The Tribunal also accepted the Legally Qualified Chair's advice on cross-admissibility and propensity.

The Tribunal's Analysis of the Evidence and Findings

19. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence and made its findings on the facts.

Patient A

Paragraph 1

1. On 17 March 2022 you consulted Patient A and you failed to:

   a. obtain an adequate history from Patient A as you did not obtain further information in relation to their mental health concerns to consider whether any further action and/or treatment was required;

20. As background, The Tribunal noted that the evidence indicates that the principal reason for Patient A's attendance at the Practice was because she had been suffering from diarrhoea. At paragraph 2 of her Witness Statement Patient A stated:

> *'2. I had been to A&E on 12 March 2022 due to feeling really ill. The hospital gave me some stuff to help and settle my fluids and I collapsed on the corridor. I was then put in a bed next to the nurse's station for most of the night and couldn't stop going to the toilet. The hospital sent me home on the advice I must go and see my GP as soon as possible…'*

21. Also as background, and responding to Tribunal questions during her oral evidence, Patient A stated that she had told Dr Ahmed that she had been to hospital with severe diarrhoea and had collapsed. The problem had been occurring for a while and had got so bad that they (hospital staff) said it was probably because of my situation and they told me to go to my GP as soon as possible. She further stated that she asked Dr Ahmed if it might have been the fish and chips she had had on the Friday before, or perhaps it was connected with

anxiety. She also stated she had searched the internet and asked whether it might be colitis. She added that she also mentioned she was tired and had a 'tummy ache'.

22. At paragraphs 3, 5, 8 and 9 of her statement dated 15 November 2023, Patient A stated:

> *'3. Around March 2022, my dad was diagnosed with XXX; my mum was ill and I was juggling my responsibilities as XXX in my job as a XXX. During these circumstances, I developed symptoms of chronic diarrhoea. Initially, I had attributed the cause of the diarrhoea to the chef at work, thinking that he wasn't cooking the fish properly. The incontinence symptoms grew progressively worse throughout March 2022 and began to cause me problems at work. I wondered whether I might have developed Crohn's disease and, due to the chronic nature of my diarrhoea, I couldn't accept the incontinence symptoms were being caused by the stress of my dad's diagnosis. I decided something was wrong and that I needed to see a doctor.'*
>
> *5. '…I explained my circumstances: my dad's diagnosis, my mum's illness, that I was struggling to eat and sleep and my symptoms of incontinence ….'*
>
> *'8. I explained again about my dad's diagnosis and burst into tears. I asked Dr Ahmed whether there were any services that I could access to speak about my mental health. Dr Ahmed was very dismissive and said, words to the effect of, "I think it's something and nothing, it'll all be fine". He made no exploration of my mental health, nor did he advise of any support network that I could access. My dad was XXX, my mum was ill and something was not right with my physical health. I felt like I was carrying my family and I didn't know where to turn; I had hoped the doctor could help. Dr Ahmed was very abrupt, did not present any empathy or appropriate bedside manner. He made me feel as if I'd turned up with my stool sample and that I was wasting his time. I feel he took how I appeared at face value and didn't even try to explore what might be going on underneath.'*
>
> *9. Outside of the information I volunteered to Dr Ahmed, he did not make any exploration of my medical history. He did not ask if I had any personal or family history of bowel symptoms or adverse mental health. He did not ask for any specific details about my incontinence symptoms or condition of my mental health.'*

23. In her evidence, Patient A maintained that she told Dr Ahmed about her personal circumstances, including about her dad's illness and her mum's illness, and that she was stressed and wanted to know how she could access services to support her with her mental health. She stated that during the consultation she burst into tears and Dr Ahmed did not seem to be interested. Patient A told the Tribunal that after the consultation concluded, she informed the Practice reception staff of her experience on her way out.

24. In his evidence, Dr Ahmed maintained that Patient A did not mention anything about her mental health at the consultation. He said that if she had mentioned it, this would have been significant and concerning, and that he would have recorded it in the clinical notes. Dr

Ahmed said that he would have explored this further with Patient A by asking her questions about her personal circumstances, who she lived with, why she felt the way she did, etc. Dr Ahmed said that given people with mental health problems can have suicidal/severe depression, he would not have allowed Patient A to leave the Practice until he was sure that she was safe. He added that if he was unsure about what to do in the circumstances, he would have sought advice and guidance from Dr E.

25. The Tribunal had regard to the entry in Patient A's medical records made by Dr Ahmed. Dr Ahmed recorded: This states as follows but includes no reference to mental health:

'Problem	***Diarrhoea (Review)***
History	*worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium* [sic]
Examination	*chest clear* *circulation I+II+zero* *abd SNT* *calves SNT*
Comment	*plan* *Stool culture'*

26. In his Disclosure document dated 16 October 2024, Dr Ahmed responded to issues with respect to Patient A but did not mention mental health. He stated more generally that his practice is that he only records matters mentioned, as well as any examinations he undertakes. Dr Ahmed told the Tribunal that if there was no reference about Patient A's concerns about her mental health, then she did not mention it.

27. The Tribunal noted the complaint log recorded by Dr E following her telephone conversation with Patient A:

'I was asked to ring Patient A after her consultation with Dr Omar Ahmed

She described the consultation as strange

She reported that after being called in at around 10.10 she showed the stool sample and DR Omar said he needed to check something about sending the stool sample as she had brought it in a home container. He then left the room.

She reported she had sat for about ten minutes and then had actually got up and left the chair and gone outside the room to see if she could see him anywhere. She could not see him in either corridor where she could looked. She reported she returned to the room and sat and waited and he returned roughly a further ten minutes later at about

10.30. At this point she felt he looked surprised to see her and she prompted him by asking about the stool sample. He asked to give it at reception.

She had questions which she tried to ask him about what might be causing her diarrhoea but he did not seem interested.

When asked what examination occurred she said he examined her tummy when she was stood up, by pressing on it. No other examination occurred.
In the record a cardiovascular, respiratory, and calf examination are recorded. She reported this did not occur.

…..'

28. The Tribunal has noted that there is no reference in this note to any concerns being raised by Patient A about her mental health.

29. The Complaint Log made by Ms I, Human Resources and Patient Liaison Manager of her telephone call with Patient A dated 25 March 2022 also does not record any reference to concerns being raised by Patient A about her mental health. The Tribunal noted that the detailed record of the conversation between Patient A and a staff member Ms H also makes no reference to concerns about mental health. This record states:

'• She had a telephone call with Dr Ahmed on 16th March and he asked her to attend the surgery on 17th March with a stool sample
• The patient arrived and was called into Dr Ahmed's room, there was already a nurse in there getting a prescription signed, the nurse apologised to the patient and left
• The patient then gave Dr Ahmed her stool sample and stated Dr Ahmed said 'I will have to go and check if the sample can be sent off today'
• The patient was then left in the room on her own for 20-25 minutes, she stuck her head out of the door because she didn't know what to do and no one was around. The patient stated there was all sort of things in the room that she could have taken
• I asked the patient if she could see anything on the computer, but she reported that it was just a black screen
• The patient then explained that she is under a lot of pressure at the moment as she has recently found out her dad is XXX ill so wanted to discuss this with the GP as didn't know if the stress was related to her symptoms, the patient then broke down on the phone and explained that todays consult had left her very distressed.
• The doctor then returned back so the patient asked about the sample and Dr Ahmed replied saying yes it can go off just drop it into reception
• The patient then asked about her bloods she had at A+E recently and if it showed anything that could be related to her symptoms, but Dr Ahmed never looked at them and said no we need to get your stool sample results first.
• The patient stated she felt the appointment was a waste of time as it was just to drop the sample off and she could have done that at Reception, she thought she would have been able to discuss everything she had going on and got support, but she has just been left with no help.'

30. The Tribunal accepts that at the time of the consultation Patient A was distressed by her personal circumstances. The Tribunal considers it likely that, as she states, she mentioned these stressors to Dr Ahmed. The Tribunal is sympathetic to her feelings that her distress was not adequately acknowledged by Dr Ahmed. However, the Tribunal took the view that distress about personal circumstances, which a non-medical person might call their mental health, was not the same as a medical mental health problem which the expert Dr G envisages in his report, referring to making inquiries relating to *'suicidal ideation/intent'*. The Tribunal relied upon the report of Dr G in this respect. The Tribunal considers that to have pursued this particular line of enquiry with Patient A would have been inappropriate where her distress, as described in her statement and oral evidence, related to her parents' illnesses, her physical symptoms of diarrhoea, and the impact on her work.

31. It was Dr Ahmed's oral evidence that if there was a mental health problem he would have taken action and treated it seriously. The Tribunal infers that he is referring to a medically recognised mental health problems as envisaged by Dr G. The Tribunal is concerned that there is evidence that Patient A did not have a sympathetic consultation with Dr Ahmed. It is also concerned that Dr Ahmed did not record Patient A's distressed presentation. However the allegation focuses on a failure with respect to history taking in relation to mental health, and the expert evidence adduced related to this in the medically recognised sense rather than the non-medical sense. From the entirety of the evidence placed before it, the Tribunal was unable to identify sufficient corroborative evidence to support this allegation about mental health concerns. In the circumstances, it finds that it cannot be expected that Dr Ahmed should have obtained further information about Patient A's mental health concerns or considered whether any further action and/or treatment was required.

32. The Tribunal therefore found paragraph 1a of the Allegation not proved.

b. consider the significance of Patient A's reported symptoms regarding their:

i. being unable to eat ~~or drink~~;
(Amended under Ruel 17(6)

33. The allegation here is that Dr Ahmed failed to consider the significance of Patient A's reported symptoms regarding their being unable to eat.

34. At paragraph 5 of her statement dated 15 November 2023, Patient A stated:

5. '…I explained my circumstances: my dad's diagnosis, my mum's illness, that I was struggling to eat or sleep and my symptoms of incontinence ….'

35. In his evidence, Dr Ahmed said that if Patient A had mentioned that she was unable to eat, he would have explored it further as this is a significant matter and needed to be addressed immediately, and that he would have referred Patient A immediately to A&E.

However, Dr Ahmed maintained that Patient A did not mention this to him at the consultation.

36. The Tribunal had regard to Dr Ahmed's Disclosure document, dated 16 October 2024, in which he stated:

> *'When I take history from patient I have a template which usually cover all body systems and according to patient response I continue to explore more. So for example if I ask patient do you eat well? And his response is yes then I stop here but if he said no then I explore more. So regarding if the patient tells me that eating is affected so definitely I will proceed and ask more. The same ably* [sic] *for faecal incontinence (which is a significant sign I never ever take it for granted) if Patient A told me that got faecal incontinence I will ask Patient A more following questions. So I am certain I asked the patient the necessary questions but definitely the patient did not tell me about these symptoms although I already asked (Patient A).'*

37. The Tribunal had regard to the clinical notes made by Dr Ahmed of the consultation in Patient A's medical record:

'Problem	***Diarrhoea (Review)***
History	*worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium*
Examination	*chest clear* *circulation I+II+zero* *abd SNT* *calves SNT*
Comment	*plan* *Stool culture'*

38. The Tribunal also had regard to Dr E's note of her telephone conversation with Patient A. There is no mention that Patient A told Dr Ahmed she was unable to eat.

39. The Tribunal noted in his expert report that Dr G stated:

> *'Dr Ahmed obtained a history of a 5 day history of worsening frequent watery diarrhoea which did not respond to over the counter medication. Patient A had attended A&E at the weekend and fainted in the waiting area. If Dr Ahmed's version of events is accepted this was a limited but adequate history.*
>
> *In her statement Patient A mentioned to Dr Ahmed that she was worried about her father's diagnosis, mother's illness, inability to eat …*

40. Dr G's record however is not accurate in this respect. Patient A in her own evidence at paragraph 5 of her witness statement, and during her oral evidence to the Tribunal, stated that she was struggling to eat (the Tribunal's emphasis) and not that she was unable to eat.

41. The Tribunal considered that if Patient A was unable to eat, this would have been significant and the absence of any action by Dr Ahmed to explore the cause of that could have been serious. However, the evidence is not that Patient A was unable to eat. The evidence is that she was struggling to eat. The Tribunal accepted Dr Ahmed's evidence that if inability to eat had been mentioned, he would have recorded it in his clinical notes and would have explored the significance of it with Patient A and taken urgent action.

42. In view of the evidence before it the Tribunal was not satisfied that the GMC has discharged its burden of proof.

43. The Tribunal therefore found paragraph 1bi of the Allegation not proved.

ii. having faecal incontinence;

44. The allegation here is that Dr Ahmed failed to consider the significance of Patient A's reported symptoms regarding their having faecal incontinence.

45. The Tribunal again had regard to paragraphs 3, 5 and 9 of Patient A's statement, as set out above. Patient A's main reason for attending at the Practice was her symptoms relating to what she terms chronic diarrhoea in her witness statement. She states in paragraph 3 that she had initially attributed the cause of her symptoms to the chef at work not cooking the fish properly, however she states that the incontinence symptoms grew progressively worse throughout March 2022 and began to cause her problems at work.

46. The Tribunal again had regard to the opinion of Dr G in his report of 3 January 2024.

47. In her statement Patient A stated that she mentioned to Dr Ahmed that she was worried about her father's diagnosis, mother's illness, struggling to eat and sleep, and her symptoms of incontinence and her mental health but none of this information was noted in the clinical history obtained by Dr Ahmed. The symptoms outlined were potentially significant (struggling to eat and sleep and incontinence) as this would suggest the severity of the condition was worse than described by Dr Ahmed.

48. In the clinical notes of Patient A consultation with Dr Ahmed, there is no mention of incontinence. The record of the clinical notes show:

'Problem ***Diarrhoea (Review)***

History *worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium*

Examination *chest clear*
circulation I+II+zero
abd SNT
calves SNT

Comment *plan*
Stool culture'

49. In his evidence, Dr Ahmed stated that if Patient A had mentioned this, he would have sent her to A&E as 'no one can take for granted' or he would have sought advice and guidance from Dr E.

50. Patient A's primary presenting symptom was her diarrhoea and that was the main reason for her attendance at the consultation. Dr Ahmed's record of the consultation makes no reference to incontinence. However, in the history section of his clinical notes, Dr Ahmed did record reference to diarrhoea in detail and that she went to A&E and fainted in the waiting area.

51. The Tribunal took into account that Patient A was very distressed and upset by her personal circumstances at the time. It is likely that Patient A mentioned the matters as recorded in the clinical notes. Dr Ahmed put in place a care plan to address these matters by sending Patient A's stool sample for further investigation. Dr G indicated that this was an appropriate response to the symptoms clinically indicated.

52. The Tribunal again had regard to Dr Ahmed's Disclosure document, dated 16 October 2024, in which he stated:

> *'When I take history from patient ….. The same ably for faecal incontinence (which is a significant sign I never ever take it for granted) if Patient A told me that got faecal incontinence I will ask Patient A more following questions. So I am certain I asked the patient the necessary questions but definitely the patient did not tell me about these symptoms although I already asked (Patient A).'*

53. In view of the evidence before it, the Tribunal was not satisfied that the GMC has discharged its burden of proof.

54. The Tribunal therefore found paragraph 1bii of the Allegation not proved.

c. communicate the suspected diagnosis to Patient A;

55. At paragraph 11 of her witness statement, Patient A stated:

> *'Following the examination, Dr Ahmed did not explain any working diagnosis or provide me with any advice….". I said to Dr Ahmed, "I have looked online and think that it might be microscopic colitis, what do you think?" Dr Ahmed replied, "I don't*

know, take the sample to hospital." Dr Ahmed did not explain I was to come back to discuss the results, or anything to that effect.'

56. In his Disclosure document, Dr Ahmed stated:

'5-She said I told her to send the stool sample to the hospital? What is the motivation for me doing that? Am I going to test her stool sample myself? Why am I going to ask her to do that?

'6-She said that I missed her case? how does she claim that I missed her case if I asked her to do a stool test? If the stool test comes back with results confirming blood in the stool then the next step is sending her for an endoscope. But before the Endoscope we have to do a stool test, so why does she claim that I missed her case?'

57. In his evidence to the Tribunal, Dr Ahmed explained his usual practice and what he would do in this type of scenario. He said that he would ask the patient to provide a stool sample which should then be handed in to reception so that it can be sent to the laboratory for testing to see if there was any blood in sample, then he would refer the patient for a camera test to exclude any malignant lesions or inflammatory diseases. He said that he would always explain this to the patient.

58. Dr Ahmed went on to say that he had no working diagnosis at this point and therefore could not communicate a suspected diagnosis to Patient A.

59. Dr G in his report stated:

'The entry in the clinical record would suggest that Dr Ahmed conducted the consultation appropriately by taking a history, carrying out an assessment and arranging a stool test.
However Patient A provides a different version of events. In her statement, Patient A says ……. He did not provide a working diagnosis, ….and did not provide any advice or safety netting advice in case of worsening symptoms. If this version of events is accepted then Dr Ahmed did not conduct the consultation appropriately by failing to communicate with Patient A about the suspected diagnosis (although the diagnosis is unclear from the limited extract of the notes)….'

60. The Tribunal noted that Dr G referred to the clinical notes made by Dr Ahmed of the consultation with Patient A, which state:

'Problem	***Diarrhoea (Review)***
History	*worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium* [sic]
Examination	*chest clear*

circulation I+II+zero
abd SNT
calves SNT

Comment *plan*
Stool culture'

61. The Tribunal accepts that Dr Ahmed did not have a suspected diagnosis at this point. He had arranged for Patient A to provide a stool sample for testing before he could have a diagnosis to communicate to her. Therefore, it would not be possible for Dr Ahmed to communicate any suspected diagnosis to Patient A because he did not have one. The allegation does not relate to Dr Ahmed making no diagnosis, but of not communicating a suspected diagnosis.

62. Based on the fact that there was no suspected diagnosis, The Tribunal found paragraph 1c of the Allegation not proved.

d. adequately record the consultation in Patient A's medical records in that you did not record that Patient A:

i. was struggling with their mental health;

ii. was not eating ~~and drinking~~;
(Amended under Ruel 17(6)

iii. was having faecal incontinence.

63. The Tribunal considered paragraph 1di – iii together.

64. The Tribunal reminded itself that it had not made a finding in relation to paragraphs 1a, 1b and 1c above. It follows therefore that Dr Ahmed did not fail to record the relevant paragraphs in his clinical notes. Paragraph 1di – ii is therefore not proved.

Paragraph 2

2. You recorded in Patient A's medical records that you carried out examinations of their:

a. cardiovascular and respiratory symptoms;

b. calves.

65. The Tribunal considered paragraphs 2a and 2b together.

66. It noted that in his clinical notes of the consultation with Patient A, Dr Ahmed recorded:

'Problem ***Diarrhoea (Review)***

History *worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium* [sic]

Examination *chest clear*
circulation I+II+zero
abd SNT
calves SNT

Comment *plan*
Stool culture'

67. Based on the evidence before it, and Dr Ahmed's own admission that if he undertook an examination, he would have recorded it, the Tribunal found paragraphs 2a and 2b of the Allegation proved as a matter of fact.

Paragraph 3

> 3. You knew that the recording you made as described at paragraph 2 was untrue because you had not performed those examinations.

68. The evidence relating to this allegation is limited to Dr Ahmed's clinical record of the consultation. This is:

'Problem ***Diarrhoea (Review)***

History *worsening diarrhea started last Saturday reports went to AE fainted in waiting area reports frequent diarrhea, watery diarrhea does not respond to imodium* [sic]

Examination *chest clear*
circulation I+II+zero
abd SNT
calves SNT

Comment *plan*
Stool culture'

69. Patient A's account, as set out in her statement, is that Dr Ahmed did perform an examination of her stomach after asking her to lie down on the examination bed. She reports he pressed on her tummy. She was clear in her witness statement that no other examination had taken place.

70. The Tribunal noted however that in a complaint log by Dr E following a telephone conversation with Patient A, she records that Patient A told her that Dr Ahmed examined her tummy when she was stood up:

> *"When asked what examination occurred she said he examined her tummy when she was stood up, by pressing on it. No other examination occurred."*

71. In oral evidence to the Tribunal, Patient A stated that Dr Ahmed had examined her both standing up and lying down. She stated that on both occasions Dr Ahmed had felt her tummy, and when she was lying down he felt her tummy and her sides.

72. Dr Ahmed in his Disclosure document, dated 16 October 2024, stated:

> *'1-There is a big discrepancy between Dr E statement and Patient A statement.*
>
> *Dr E said that I examined the patient in a standing position?(Something I never ever done in my life.). said that I asked her to lie down on the bed to examine her abdomen which she did.'*

73. In his Rule 7 Response, Dr Ahmed stated:

> *'Also, whenever I examine any patient I follow a basic multisystem examination technique which includes vital signs, chest examination, abdomen examination, and lower legs. This is a standard for any patient regardless to his main complain. Then I add more tests and examination according to patient condition. You accuse me that I did not do that but I am certain that I did that.'*

74. During his oral evidence, Dr Ahmed explained that when he used to work in the hospital, his specialty was in orthopaedics, and that this was for most of his career. He told the Tribunal that it had become common practice and routine for him to examine a patient's chest and heart, abdomen and calves.

75. He explained that he only recorded in the clinical notes the matters mentioned, as well as any examinations he undertakes. Dr Ahmed said that from the clinical notes he made, it was clear that he undertook an examination of Patient A's chest and heart from the back, as was his usual practice, using his stethoscope. He said he would have done this whilst Patient A was standing, standing behind her and that it would take less than one minute. He then asked Patient A to lie on the examination bed upon which he undertook an examination of her abdomen. It was Dr Ahmed's evidence that he would also have examined Patient A's calves which he routinely did for patients.

76. The Tribunal therefore had to consider the likelihood of Dr Ahmed knowingly placing a false account of an examination in his clinical notes. The only primary evidence before it is that of Patient A and Dr Ahmed.

77. The Tribunal took into account Patient A's distressed state when she was in the consultation with Dr Ahmed and the differing evidence she had provided to the Tribunal, first that she was only examined lying down (from her witness statement) but then later stating that she was examined both standing up and lying down from her reported conversation with Dr E and oral evidence to the Tribunal. The Tribunal considers it more likely than not that Dr Ahmed would not have pressed her tummy standing up as well as lying down. The Tribunal considered it more likely that if Dr Ahmed examined Patient A standing up, he was undertaking other examinations and that Patient A may not have been clear about what examinations were taking place because of her distressed state.

78. The Tribunal considered that, taking into account its finding that it was more likely than not that Dr Ahmed had performed an examination of some type (but not on her tummy) when Patient A was standing up and that it was conceivable that he did perform the examinations he recorded in the consultation notes. Following that he carried out an abdominal examination with her lying down.

79. The Tribunal reminded itself that during her submissions, the GMC Counsel, Ms Widdett confirmed that a Good Character Direction was appropriate in this case and that the legal advice it had received had given a Good Character Direction. It considered whether Dr Ahmed had a propensity to behave in the way alleged, but determined he did not.

80. In the circumstances, and based on the evidence before it, the Tribunal was not satisfied that the GMC had discharged its burden of proof. It therefore found paragraph 3 of the Allegation not proved.

Patient B

Paragraph 4

4. On 24 March 2022 you consulted Patient B and you failed to:

a. adequately examine Patient B in that you did not undertake an examination of Patient B's:

i. shoulders;

ii. wrist;

iii. knees;

iv. hips;

81. The Tribunal considered paragraph 4ai – iv together.

82. At paragraphs 3 and 4 of his witness statement, dated 1 October 2023, Patient B stated:

'On 24 March 2022 I attended Woodfield Medical Centre for an appointment with the GP to address the pain and numbness. I saw Dr Ahmed in his consultation room at around 10:36. Dr Ahmed was sat at his desk looking at his computer and seemed very focussed on drinking his coffee. He appeared to be very tired. I explained to Dr Ahmed that I was suffering from joint pain. I explained that I thought the pain might have been a result of an operation I had on my left shoulder in 2020. I explained that the pain was periodic, happening on and off, and ran down my arms. I explained that I would sometimes lose feeling in my arms, I would get a funny feeling in my elbow and my fingers and hands would go numb. I queried whether these symptoms could have been caused by a trapped nerve; Dr Ahmed didn't respond. I also explained that the symptoms were affecting my sleep, and that I had not slept for 4 nights.'

and

'Dr Ahmed did not ask me any further questions about my medical history or presenting symptoms. Dr Ahmed did not conduct any physical or visual examination of me, he just sat at his desk drinking coffee. Dr Ahmed then wrote me a prescription for sleeping pills and advised I take one tablet a day. I had not requested sleeping pills. Dr Ahmed did not explain any diagnosis he had made, nor did he explain whether he was making any onward referrals for tests or examinations. Dr Ahmed did not explain any proposed treatment plan to me. Dr Ahmed then motioned for me to leave and that the consultation was over. The consultation lasted 5 minutes at maximum.'

83. When cross examined, Patient B maintained that Dr Ahmed did not seem interested and just sat there drinking his coffee. He said that the consultation last no more than five to ten minutes at most, and that he even questioned whether Dr Ahmed was a 'proper doctor'.

84. In his Rule 7 Response, dated 8 March 2024, Dr Ahmed stated:

'…, you accuse me that I did not examine the patient joints but I am certain that I examined all the joints.'

85. In his Disclosure document, Dr Ahmed stated:

'1-… During my GP rotation I examined many patients who seek medical reports in order to take universal credit or benefits. I came across many cases where Jobcenter sorted out a job for them but they do not prefer to work, they just need to stay at home and collect benefits. So in order to avoid being judgemental I usually refer these patients to Dr E for final decision.

2-These patients usually present with generalised body symptoms and unrelated symptoms and signs with a lot of documentation on the system confirms their vague presentations and loads of investigations. They usually become very upset in case you did not issue a sick note straightforward as a sick note for them means money. That is why with this type of patient I make sure examinations and results are properly done

and documented as I am quite sure they will raise a complaint against me. In my job I should be honest and never give a patient a sick note unless he really deserves it.

So Patient B presented with chronic shoulder pain since his last operation in 2020 and ***generalised body joints numbness and pain****? for which he had a lot of investigations for last two years including nerve conduction studies and attended clinic reporting not able to sleep for four days and asking for sick note to give to universal credit? I just would like to ask a question: is the sick note going to help Patient B with his chronic problem? Is the sick note going to help him fall asleep? And why is he not happy with the sleeping tablets if one of his complaints was not being able to sleep for four days? so I am quite sure I examined him properly and I referred him to Dr E for a sick note and further assessment. As part of my job I have to be honest and should not give unnecessary sick notes if not needed.'*

86. The Tribunal had regard to Dr Ahmed's clinical notes of the consultation where he recorded:

'Problem ***Joint pain*** *(First)*

History *reports ongoing left shoulder pain and bilateral wrist pain with some tingling for which he had NCS before, reports ongoing knee and hips pain reports his pain prevent him from sleep not able to work and need sick note to give to universal credit to have benefit*

Examination *O/E GC515*
Shoulders intact skin, intact distal NV, no signs of infection full ROM with pain
Wrists intact skin, intact distal NV, no signs of infection full ROM with pain, there is tingling on ulnar nerve sensory area left side which pt confirm had been investigated before
knees intact skin, intact distal NV, no signs of infection full ROM with pain
hips intact skin, intact distal NV, no signs of infection full ROM with pain

Medication *Zopiclone 7.5mg tablets One To Be Taken At Night 7 tablet*

Comment *plan*
sleep tablets
sick note to be discussed with Dr E'

87. The Tribunal noted Dr E's record of a conversation she had with Patient B on 28 March 2022 when he attended the Practice to see her. This record is titled 'Complaint' and is exhibited to her Witness Statement. It stated:

'Patient B attended for a consultation with Dr Omar.

Patient B has full online access to his record.
Patient B spoke with myself, Dr E on 28th March.

1. *He reported that he attended for a face to face consultation with Dr Omar on the 24th March about pain in his joints which was his main concern. He did feel what was recorded in his notes was a true reflection of what had occurred.*
2. *He reported that no examinations of his joints was undertaken of his shoulders, knees or hips. I asked specifically what had happened. He reported his knees were not examined. His hips were not examined. He showed movement in his shoulder but that Dr Omar did not palpate or feel the joints. At no point did he remove or alter any clothing to show his knees, hip or shoulders.*
3. *He did not want or ask for sleeping tablets but these were issued he says after he said the pain affected his sleep. He had not taken the sleeping tablets issued, indeed he still had the prescription.'*

88. The Tribunal also noted the entry made by Dr E in Patient B's medical records following her consultation with Patient B on 28 March 2022:

'History *discussion re concerns re consult last week*
reports not being examined.
self empkloyed XXX
unable to work at the moment
discussion re movement in joints and pain
cocdamol makes him drowsy and given him hallucinations at night did not feel naproxen was helpful

Comment *appt made for f2f'*

89. Dr Ahmed told the Tribunal that he had not seen the clinical notes he made of the consultation until a couple of days ago. He explained to the Tribunal that, with his background and experience of several years in orthopaedics, he would have conducted a thorough examination of Patient B's joints, adding that this was supported by the detailed clinical notes he had made. He added that if he had not examined Patient B, how could he have made any findings about the tingling on the ulnar nerve sensory area left side which the patient confirmed had been investigated before. He said that if there were any issues, Dr E could have had spoken to him before coming to any conclusions as to what had happened. When asked by Ms Widdetts why Patient B would make such a complaint, he stated that Patient B had been unhappy that he had not given him a sick note and that could have been the reason but he did not know.

90. The Tribunal noted that in point 2 of her note of 28 March 2022, Dr E recorded *'He showed movement in his shoulder but that Dr Omar did not palpate or feel the joints'* The Tribunal considered that this could indicate that Dr Ahmed asked Patient B to demonstrate movement in his shoulder which Patient B did. Further, it took into account that Dr Ahmed recorded in Patient B's medical records *'sick note to be discussed with Dr* E'.

91. The Tribunal further noted that during cross examination, Patient B was asked if he had asked Dr Ahmed for a sick note, and he stated that he had done so. He stated that he wanted a sick note because he was in a lot of pain and was self-employed at the time. He stated that the pain was chronic and mainly in his shoulder. He thought that the problem came from a surgical procedure some two years before the appointment and that since then he had suffered from pain 'everywhere'. He further told the Tribunal that his problem had now been resolved due to advice from a different Doctor to see a Chiropractor and he was now pain free. Following further questions from Dr Ahmed, Patient B stated that he had seen Dr E face-to-face a few days later and she had given him a sick note and prescribed something for pain. In relation to specific questions about examination, Patient B was not clear about there being no examination during his consultation with Dr Ahmed. His reply was that Dr Ahmed did not seem interested in his problems and Patient A was not sure he was a proper Doctor and had asked reception on his way out. He stated the consultation was '10 minutes maximum' with little interaction.

92. Following this consultation with Dr Ahmed, Patient B had asked reception if he had been a proper Doctor and indicated he did not want the prescription of sleeping tablets. The evidence is that reception raised this issue with Dr E who subsequently called Patient B and arranged a further appointment with her. He also confirmed that Dr E had asked him to make a statement about his consultation with Dr Ahmed. It is the note entitled 'Complaint' already referred to above.

93. The Tribunal noted a problem of consistency with the document entitled 'Complaint' which must be the earliest document leading to allegations with respect to Patient B other than Dr Ahmed's consultation note and Dr E's consultation note. The document has three substantive paragraphs. In the first paragraph it is clearly stated that Patient B told her that he felt that 'what was recorded in his notes was a true reflection of what had occurred'. This contradicts part of the second paragraph where it is reported that Patient B stated that there had been no examination of his joints. This paragraph has the additional phrase already mentioned about showing some movement in Patient B's shoulder. The Tribunal notes that in the heading of his complaint it is indicated that Patient B has full online access to his record.

94. The Tribunal notes that it would appear Patient B had had an opportunity to view the record made by Dr Ahmed by the time he had seen Dr E. Patient B confirmed that the record was an accurate record of what took place during the consultation with Dr Ahmed. This is at odds with the evidence being presented to the Tribunal that no examination took place at all.

95. The Tribunal took account of the positive finding made by Dr Ahmed 'tingling on the ulnar nerve sensory area left side'. The Tribunal considers that such a finding would require more than an visual examination.

96. Based on the evidence before it, that is (i) the detailed clinical notes made by Dr Ahmed in Patient B's medical records, including the positive finding relating to the ulnar nerve, (ii) Patient B's confirmation to Dr E that the clinical notes made by Dr Ahmed were an accurate reflection of what took place at the consultation, (iii) Dr Ahmed's accepted evidence in relation to his usual practice given his orthopaedic background, the Tribunal was not

satisfied that the GMC had discharged its burden of proof. It concluded, on the balance of probabilities, that it is more likely than not that Dr Ahmed did examine Patient B's shoulders, wrist, knees, and hips.

97. The Tribunal therefore found paragraph 4a of the Allegation not proved.

b. communicate the suspected diagnosis to Patient B.

98. In paragraph 4 of his statement, Patient B stated:

'Dr Ahmed did not explain any diagnosis he had made, nor did he explain whether he was making any onward referrals for tests or examinations.'

99. Dr Ahmed in his Rule 7 Response, dated 8 March 2024, stated:

'You accuse me that I did not communicate to the suspected diagnosis but I am certain that I told the patient about the differential diagnosis of his condition as usually there are many diseases which could do multiple joint pain. I could not tell him exactly what is the exact diagnosis at this stage because we still need to do investigations.'

100. Dr G, during his evidence, explained to the Tribunal that he was also a GP trainer. He said that in a situation where a trainee GP was unclear about the diagnosis, he would expect that trainee to seek advice from their GP trainer/supervisor and communicate a suspected or working diagnosis to the patient.

101. The Tribunal noted the entry in Patient B's medical records on 30 March 2022 by Dr E which states:

Problem Joint pain (Review)

History attended for rv as planned
1. loss of sensation in ulnbar distribution in both hands
2. shoulder pain left for 6 mths surgery as noted
3. knee pain - right and left - going down stairs - has to help knee to extend

Document eMED3 (2010) new statement issued, not fit for work ? Fit Note Document
(Diagnosis: Joint pain; Duration 24-Mar-2022 - 03-May-2022)
(Emphasis added)

102. The Tribunal noted that Joint pain is a symptom and not a diagnosis. Neither Dr Ahmed nor his Supervising Doctor made any diagnosis of Patient B's joint pain.

103. From the evidence before it, the Tribunal came to the conclusion that there was no suspected diagnosis which could be communicated to Patient B. It determined that Dr Ahmed had not failed to communicate the suspected diagnosis to Patient B.

104. The Tribunal therefore found paragraph 4b of the Allegation not proved.

Paragraph 5

5. You recorded in Patient B's medical records that you carried out an examination of their:

a. shoulders;

b. wrist;

c. knees;

d. hips.

105. The Tribunal has already found in relation to paragraph 4a above that Dr Ahmed carried out an examination of Patient B's shoulders, wrist, knees and hips. This is recorded by Dr Ahmed in Patient B's medical records. Paragraph 5a - 5d of the Allegation is therefore found proved as a matter of fact.

Paragraph 6

6. You knew that the recording you made at paragraph 5 was untrue because you had not performed those examinations.

106. Patient B's account, as set out in his statement, is that Dr Ahmed did not perform any examination of his shoulders, wrist, knees or hips.

107. Dr Ahmed in Rule 7 Response, dated 16 October 2024, stated:

'….you accuse me that I did not examine the patient joints but I am certain that I examined all the joints.'

108. The Tribunal had regard to the notes recorded by Dr Ahmed in Patient B's medical records, as set out above. It also took into account that in his conversation with Dr E, Patient B confirmed the clinical notes to be an accurate reflection of what took place at the consultation he had with Dr Ahmed. The Tribunal has already found that Dr Ahmed did perform the examinations which are the subject of paragraph 4a and 5a – 5d of the Allegation. As a consequence, it therefore found paragraph 6 of the Allegation not proved.

Patient D

Paragraph 10

10. On 23 May 2022 you consulted Patient D and you failed to:

a. obtain an adequate history in that you did not obtain information relating to the patient's axillary pain including the:

~~i. site of pain~~;
(Amended under Ruel 17(6)

ii. presence/absence of swelling;

iii. duration of symptoms;

iv. exacerbating and relieving factors;

v. range of movement of the arm;

109. The Tribunal considered paragraph 10a ii – v together.

110. The Tribunal has taken account of Patient D's witness statement dated 25 September 2023. At paragraphs 3 and 4, Patient D stated:

'I had suffered symptoms with my prostate for a number of years, I had been seen by a number of doctors for these symptoms and, by May 2022, I was under treatment from the Urology Unit for my prostate symptoms. The main reason for my appointment on 23 May 2022, however, was for the pain in my armpit.'

and

'On 23 May 2023 I was consulted by Dr Ahmed. He asked where pain was, and I explained that it was under my armpit. He went to his computer and asked me a couple of questions and I provided responses, though I can't recall the details of the questions he asked. His demeanour was very awkward throughout the consultation, he didn't make eye contact with me and was just sat punching things into the computer. I felt like he was not paying any attention to what I was saying and wasn't taking anything that I said seriously. He appeared heavily reliant on whatever the computer said to advise his treatment; it seemed like everything he was asking me was prompted by the computer.'

111. In his oral evidence, Patient D maintained that the purpose of his appointment was to discuss the pain under his armpit. In his oral evidence, however, he acknowledged that there might have been some discussion about his prostate during the consultation.

112. In paragraph 6 of his statement, Patient D stated:

'I called Field House the following morning, 24 May 2022, and asked to see the doctor again. After speaking with several different people, and spending a significant period of time on the line, they arranged for me to see another doctor later that day. I attended to see the new doctor that day and his service and care were extremely good, I recall he was a very slim gentleman. He asked me about my consultation with Dr Ahmed the previous day and I explained that he had not examined me. This doctor examined me and booked me in to undergo an ultrasound ('US') examination downstairs a couple of days later…..'

113. In his Disclosure document, and maintained during his oral evidence, Dr Ahmed stated:

'As I mentioned before, let us assume that the patient story is totally correct. In this case even if we assume that there is still a big discrepancy between (Patient D's) statement and Dr F's statement. The patient confirms that his medical problem was armpit pain however Dr [F] confirms that the medical problem was urine infection? I do not know which statement we need to assume as correct?'

and

'If we follow statement that he presented with armpit pain, I never ever give someone antibiotics for armpit pain unless there are signs of infection and I usually send them for a US scan …..'

114. In his oral evidence, Dr Ahmed maintained Patient D attended for symptoms relating to his prostate and that that is what he treated Patient D for.

115. The Tribunal had regard to the contemporaneous record of Patient D's telephone conversation with the Practice reception on the morning of 23 May 2022 prior to Patient D's appointment with Dr Ahmed. Timed at 09:47, it is recorded:

'Administration note …..

Additional	*Template entry – EHR composition type Care Navigation v16.1 by Ardens-Q Ltd*
History	*What is the medical concern? Concerns about his prostate, in a lot of pain in the morning until he has emptied his bowels and sometimes through the day*
	New problem week but getting worse daily
	Details about symptoms: ncerns about his prostate, in a lot of pain in the morning until he has emptied his bowels and sometimes through the day

Duration of symptoms: week

No self-help measures tried .. No specific clinician requested'

116. The Tribunal also had regard to the clinical record of the consultation with Dr Ahmed. This is dated 23 May 2022, at 11.41am. In this record, it states:

'Problem	***Chronic prostatitis** (First)*
History	*known to have chronic prostatitis under urology team in hospital his next appointment is in three months came today as acute on top of chronic pain, no fever, no LOC, no dizziness, last bowel this morning, no urine problems*
	Allergy NKDA
Examination	*Abd SNT*
Comment	*acute on top of chronic prostatitis*
……	*……..'*

117. In her witness statement, dated 10 October 2024, Dr F stated at paragraphs 3 and 4:

'On 24 May 2022, I was the duty doctor at Field House. In this role, I would take calls from and triage patients. I received a call from Patient D on the morning of the 24 May 2022 when he reported urinary symptoms.'

118. The Tribunal also had regard to Dr E's witness statement, dated 25 October 2023, where at paragraphs 17, she stated:

'I discussed this case with Dr Ahmed following the clinic on the afternoon of 24 May 2022. Based on the history recorded by Dr Ahmed, I advised that a urinalysis might have been useful, and that temperature and sepsis screening should have occurred if antibiotics had been prescribed (this a requirement of NICE guidance). I also asked Dr Ahmed what made him jump to the presentation of antibiotics.'

119. In his report, dated 3 January 2024. In his chronology section relating to Patient D, Dr G stated:

'23/05/2022 – Patient D records – Patient D attended a face to face consultation with Dr Ahmed regarding chronic prostatitis. Patient D was known to have the condition and was under the care of a local urology team with the next appointment in 3 months. Patient D attended because he had developed acute pain on top of his existing chronic prostatitis pain. ….'

120. Dr G goes on to state in relation to whether Dr Ahmed obtained an adequate history:

> *'There appears to be a discrepancy about the reason for the consultation. In his statement, dated 25 September 2023, Patient D said that the main reason for attending the appointment that day was to discuss a painful area under his armpit, however, the care navigation notes recorded earlier that day and Dr Ahmed's record both indicate that the prostate was the main reason for the consultation. The clinical concern raised about this consultation by the GP trainer relates to the assessment of prostatitis….'*
>
> and then
>
> *'If the consultation was related to prostatitis then Dr Ahmed obtained an adequate history from Patient D. He noted the past history of chronic prostatitis and that Patient D was already under the care of the local urology team. Patient D had developed acute chronic pain bit there was no new urinary symptoms, fever, dizziness or loss of consciousness. The history obtained was adequate.'*

121. The Tribunal considers that there is a significant conflict in the evidence before it. Patient D was clear in his witness statement and in his oral evidence that his presenting problem was axillary pain in his armpit. However, all other evidence before the Tribunal suggests that the presenting complaint on 23 May 2022 was Patient D's prostate, which was a chronic issue for him.

122. The Tribunal finds that taking all the evidence into account it is more likely than not that Patient D presented with problems related to his prostrate/urinary symptoms rather than axillary pain. It places weight on the contemporaneous note of the initial telephone call taken by reception at the Practice, corroborated by Dr F and Dr E's evidence and Dr Ahmed's clinical note.

123. The Tribunal therefore determined that the GMC has not discharged its burden of proof and it found paragraph 10ai – iv of the Allegation not proved.

b. adequately examine Patient D in that you did not perform either:

i. a rectal examination; or
ii. an assessment of the armpit

124. This charge alleges that Dr Ahmed failed to adequately examine Patient D in that (i) he did not perform either a rectal examination or (ii) an assessment of the armpit.

125. In his written and oral evidence, Dr Ahmed accepted that he did not perform a rectal examination on Patient D and explained the reasons for not doing so. His case was that because this was an ongoing chronic issue for which Patient D was already under the care of the local Urology Team. Dr Ahmed explained that this was not a new pain but an acute pain on top of the chronic pain.

126. The Tribunal noted again that in his consultation notes, Dr Ahmed recorded:

'Problem	*Chronic prostatitis (First)*
History	*known to have chronic prostatitis under urology team in hospital his next appointment is in three months came today as acute on top of chronic pain, no fever, no LOC, no dizziness, last bowel this morning, no urine problems*
	Allergy NKDA
Examination	*abd SNT*
Comment	*acute on top of chronic prostatitis*
…….	*……..'*

127. The Tribunal noted Dr G's oral evidence that, contrary to his written evidence in his report that a rectal examination would be expected, a rectal examination was not always required in a case where the patient had chronic prostatitis. Dr G explained circumstances when such an examination might be necessary, but confirmed where the patient had an established diagnosis and an ongoing problem and was to be followed up, or, where the patient chose not to, then a rectal examination would not be done.

128. The Tribunal found as a matter of fact that Dr Ahmed did not perform a rectal examination. However, the allegation is that Dr Ahmed did not adequately (Tribunal emphasis) examine Patient D in that he did not perform a rectal examination. The Tribunal found that Dr Ahmed did perform an abdominal examination (this is addressed in paragraphs 133-135 below). The Tribunal also noted Dr Ahmed had recorded Patient D's problem as 'Chronic prostatitis' in his consultation record on 23 May 2022. The Tribunal heard oral evidence from Dr Ahmed that a rectal examination for Patient D was not required, it was his '*usual pain, not new*.' Furthermore, the Tribunal noted the written evidence of Dr E that when she spoke to Dr Ahmed on 24 May 2022 she advised, '*a urinalysis might have been useful, and that temperature and sepsis screening should have occurred*' and went on to say, '*I explained that a prostate and rectal examination, and/or abdominal examination is needed.*' The Tribunal noted that in Dr E's advice she indicated '*rectal*' or '*abdominal*' as alternatives. The Tribunal further noted that in her written evidence, when Dr E heard Dr Ahmed's reply '*well, he's under urology anyway,*' she did not directly challenge Dr Ahmed on this point.

129. The Tribunal relied upon the above oral evidence from Dr G, documentary evidence of the consultation by Dr Ahmed, oral evidence from Dr Ahmed, and written evidence of Dr E in finding that Dr Ahmed did adequately examine Patient D by conducting an abdominal examination without a rectal examination in this instance. For this reason, the Tribunal found paragraph 10bi was not proved.

ii. an assessment of the armpit;

130. Having already determined that the consultation was not related to axillary pain, for the reasons set out above in relation to paragraph 10a, the Tribunal determined that Dr Ahmed did not fail (Tribunal emphasis) to undertake an assessment of Patient D's armpit. It therefore determined that paragraph 10bii of the Allegation is not proved.

c. address Patient D's primary concern of armpit/shoulder pain;

d. communicate the suspected diagnosis of impingement of the shoulder to Patient D;

e. adequately record the consultation in Patient D's medical records in that you did not record any information about the presenting complaint of armpit/shoulder pain.

131. The Tribunal considered paragraphs 10c, 10d and 10e together.

132. Having already determined that the consultation was not related to axillary pain, for the reasons set out above in relation to paragraph 10a, the Tribunal determined that paragraphs 10c, 10d and 10e of the Allegation is not proved.

Paragraph 11

11. You recorded in Patient D's medical records that you carried out an abdominal examination.

133. The Tribunal had regard to Patient D's medical records in which Dr Ahmed recorded:

'*Examination abd SNT*

Comment acute on top of chronic prostatitis'

134. The Tribunal noted the 'Abd SNT' was an abbreviation for 'Abdomen Soft Non Tender'.

135. The Tribunal was satisfied that Dr Ahmed did record that he had carried out an abdominal examination in Patient D's medical records. It therefore found paragraph 11 proved as a matter of fact.

Paragraph 12

12. You knew that the recording you made at paragraph 11 was untrue as you did not perform an abdominal examination.

136. The Tribunal had regard to the Patient Complaint Log in which it stated:

'Complaint – This gentleman was seen by myself (Dr F-GP) on 24/5/22. Upon telephone triage he mentioned that the doctor he had seen just a day before (referred to Dr Omar) on 23/5/22, has not examined him.'

and

'Discussions Log – This patient was then seen face to face following my phone triage on same day 24/5/22 and he mentioned again that how he was surprised that Dr Omar did not examined him at all during his consult and was busy looking at his computer screen.'

137. In paragraph 6 of his statement, Patient D stated:

'I called Field House the following morning, 24 May 2022, and asked to see the doctor again. After speaking with several different people, and spending a significant period of time on the line, they arranged for me to see another doctor later that day. I attended to see the new doctor that day and his service and care were extremely good, I recall he was a very slim gentleman. He asked me about my consultation with Dr Ahmed the previous day and I explained that he had not examined me. This doctor examined me and booked me in to undergo an ultrasound ('US') examination downstairs a couple of days later…..'

138. There is significant conflict and/or discrepancy between Patient D's account and the accounts of Dr Ahmed and the other GMC witnesses about the reason for his appointment in the first place (either prostate related or axillary pain), which the Tribunal has resolved by finding that the presenting problem was prostate related. Patient D's complaint that no examination took place was in relation to axillary pain, therefore it throws some doubt over any recollection of an abdominal examination. The Tribunal found that his evidence on this point was less reliable.

139. During his evidence to the Tribunal, Dr Ahmed explained that his usual practice is to record anything that is mentioned during a consultation or any examination. Anything not done is not recorded in the clinical notes. Dr Ahmed went on to explain that if there was anything he was unsure of he would refer to Dr E as his supervisor for advice or guidance. Dr Ahmed maintained this throughout his evidence and his evidence was consistent. Dr Ahmed repeated that if he recorded an examination, he had undertaken it.

140. The Tribunal then considered Dr E's witness statement on this matter. She states that the information she was provided about there being no examination of Patient D was from an internal note, attaching 'the clinical notes' sent to her by Dr F who saw Patient D on 24 May 2022. Dr E states that in that internal note, Dr F states that Patient D had told her that Dr Ahmed had not conducted any examination on 23 May 2022.

141. The Tribunal notes that the GMC has not provided as evidence the internal note that Dr F is said to have sent Dr E. Nor does it have Dr F's clinical note of her consultation with Patient D, although other clinical notes for Patient D have been adduced.

142. Dr F, in her Witness Statement, states that Patient D told her that no examination had taken place.

143. During his evidence to the Tribunal, Dr Ahmed explained that his usual practice is to record anything that is mentioned during a consultation or any examination. Anything not done is not recorded in the clinical notes. Dr Ahmed went on to explain that if there was anything he was unsure of he would refer to Dr E as his supervisor for advice or guidance. Dr Ahmed maintained this throughout his evidence and his evidence was consistent. Dr Ahmed repeated that if he recorded an examination, he had undertaken it.

144. The primary evidence provided by the GMC in relation to this allegation is from Patient D. The Tribunal has already explained the difficulties it has with Patient D's account of his consultation with Dr Ahmed. On the other hand, is Dr Ahmed's contemporaneous clinical note and his oral evidence that if he had conducted an examination he would have noted it, and he would not have noted something he had not done.

145. The Tribunal reminded itself that it is for the GMC to prove their case. It also reminded itself of the need for careful scrutiny of all the evidence before it. Taking all the evidence into account and in particular the various inconsistencies and gaps in evidence, is not able to make a finding that this paragraph of the allegation is proved. It therefore found paragraph 12 in relation to paragraph 11 of the Allegation not proved.

Paragraph 13

13. Your actions as described at:

a. paragraph 2 were dishonest by reason of paragraph 3;

146. The Tribunal has already found paragraph 3 of the Allegation not proved. It follows, therefore, that Dr Ahmed's actions were not dishonest and paragraph 13a in relation to paragraph 2 by reason of paragraph 3 of the Allegation is not proved.

b. paragraph 5 were dishonest by reason of paragraph 6;

147. The Tribunal has already found paragraph 6 of the Allegation not proved. It follows, therefore, that Dr Ahmed's actions were not dishonest and paragraph 13b in relation to paragraph 5 by reason of paragraph 6 of the Allegation is not proved.

~~c. paragraph 8 were dishonest by reason of paragraph 9;~~
Withdrawn following the Tribunal's decision in relation to a Rule 34(1) application

d. paragraph 11 were dishonest by reason of paragraph 12.

148. The Tribunal has already found paragraph 12 of the Allegation not proved. It follows, therefore, that Dr Ahmed's actions were not dishonest and paragraph 13d in relation to paragraph 11 by reason of paragraph 12 of the Allegation is not proved.

The Tribunal's Overall Determination on the Facts

149. The Tribunal has determined the facts as follows:

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

Patient A

1. On 17 March 2022 you consulted Patient A and you failed to:

a. obtain an adequate history from Patient A as you did not obtain further information in relation to their mental health concerns to consider whether any further action and/or treatment was required;
Determined and found not proved

b. consider the significance of Patient A's reported symptoms regarding their:

i. being unable to eat ~~or drink~~;
(Amended under Rule 17(6))
Determined and found not proved

ii. having faecal incontinence;
Determined and found not proved

c. communicate the suspected diagnosis to Patient A;
Determined and found not proved

d. adequately record the consultation in Patient A's medical records in that you did not record that Patient A:

i. was struggling with their mental health;
Determined and found not proved

ii. was not eating ~~and drinking~~;
(Amended under Rule 17(6))
Determined and found not proved

iii. was having faecal incontinence.
Determined and found not proved

2. You recorded in Patient A's medical records that you carried out examinations of their:

a. cardiovascular and respiratory symptoms;
Found proved

b. calves.
Found proved

3. You knew that the recording you made as described at paragraph 2 was untrue because you had not performed those examinations.
Determined and found not proved

Patient B

4. On 24 March 2022 you consulted Patient B and you failed to:

a. adequately examine Patient B in that you did not undertake an examination of Patient B's:

i. shoulders;
Determined and found not proved

ii. wrist;
Determined and found not proved

iii. knees;
Determined and found not proved

iv. hips;
Determined and found not proved

b. communicate the suspected diagnosis to Patient B.
Determined and found not proved

5. You recorded in Patient B's medical records that you carried out an examination of their:

a. shoulders;
Found proved

b. wrist;
Found proved

c. knees;

Found proved

d. hips.
Found proved

6. You knew that the recording you made at paragraph 5 was untrue because you had not performed those examinations. Determined and found not proved

~~Patient C~~

~~7. On 28 April 2022 you consulted Patient C and you failed to:~~

~~a. obtain an adequate history in that you did not ask Patient C any questions about their medical history;~~

~~b. communicate the suspected diagnosis of an enlarged lymph node to Patient C.~~

~~8. You recorded in Patient C's medical records that Patient C had no:~~

~~a. previous breast problems;~~

~~b. fever;~~

~~c. loss of consciousness or dizziness.~~

~~9. You knew that the recording you made at paragraph 8 was untrue because you did not ask Patient C any questions regarding her medical history.~~
Withdrawn following a decision of the Tribunal in relation to a Rule 34(1) application

Patient D

10. On 23 May 2022 you consulted Patient D and you failed to:

a. obtain an adequate history in that you did not obtain information relating to the patient's axillary pain including the:

~~i. site of pain~~;
(Amended under Rule 17(6))

ii. presence/absence of swelling;
Determined and found not proved

iii. duration of symptoms;
Determined and found not proved

iv. exacerbating and relieving factors;
Determined and found not proved

v. range of movement of the arm;
Determined and found not proved

b. adequately examine Patient D in that you did not perform either:

i. a rectal examination; or
Determined and found not proved

ii. an assessment of the armpit;
Determined and found not proved

c. address Patient D's primary concern of armpit/shoulder pain;
Determined and found not proved

d. communicate the suspected diagnosis of impingement of the shoulder to Patient D; Determined and found not proved

e. adequately record the consultation in Patient D's medical records in that you did not record any information about the presenting complaint of armpit/shoulder pain. Determined and found not proved

11. You recorded in Patient D's medical records that you carried out an abdominal examination. Found proved

12. You knew that the recording you made at paragraph 11 was untrue as you did not perform an abdominal examination. Determined and found not proved

13. Your actions as described at:

a. paragraph 2 were dishonest by reason of paragraph 3;
Determined and found not proved

b. paragraph 5 were dishonest by reason of paragraph 6;
Determined and found not proved

~~c. paragraph 8 were dishonest by reason of paragraph 9;~~
Withdrawn following the Tribunal's decision in relation to a Rule 34(1) application

d. paragraph 11 were dishonest by reason of paragraph 12.
Determined and found 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 - 17/12/2024

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, Dr Ahmed's fitness to practise is impaired by reason of 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. There was no further evidence submitted at this stage of the hearing.

Submissions for the GMC

3. Ms Widdett stated that the GMC makes no submissions on misconduct or impairment.

Submissions by Dr Ahmed

4. Dr Ahmed submitted that in light of the Tribunal's findings, he makes no submissions on impairment.

The Relevant Legal Principles

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

6. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts found proved amount to misconduct, and then, if so, whether the finding of misconduct should lead to a finding that Dr Ahmed's fitness to practise is impaired.

7. In respect of misconduct, the Tribunal reminded itself of the decision in *Roylance v GMC [2000] 1 AC 311*, as follows:

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

8. Further in the case of *R (Remedy UK Ltd) v GMC [2010] EWHC 1245 (Admin),* Silber J. stated that the conduct in question must be "sufficiently serious that it can properly be described as misconduct going to fitness to practise". In addition, in the case of *Calhaem v. GMC [2007] EWHC 2606,* Jackson J. identified a number of principles from a review of authorities concerning misconduct and deficient professional performance. They include the following:

1. Mere negligence does not constitute 'misconduct' within the meaning of section 35C(2)(a) of the Medical Act 1983. Nevertheless, and depending upon the circumstances, negligent acts or omissions which are particularly serious may amount to 'misconduct';
2. A single negligent act or omission is less likely to cross the threshold of 'misconduct' than multiple acts or omissions. Nevertheless, and depending upon the circumstances, a single act or omission, if particularly grave, could be characterised as 'misconduct'.

9. If the Tribunal makes a finding of misconduct, in order for it to determine whether Dr Ahmed's fitness to practise is impaired today, the Tribunal would need to take into account his conduct at the time of the events and any relevant factors since then, such as whether the matters were remediable, had been remedied and whether there was any likelihood of repetition.

10. The Tribunal was mindful of Good Medical Practice (GMP)(2013 version) applicable to the period the matters alleged in this case took place.

The Tribunal's Decision

Misconduct

11. Throughout its deliberations, the Tribunal has been mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

a. to protect, promote and maintain the health, safety, and wellbeing of the public
b. to maintain public confidence in the profession
c. to promote and maintain proper professional standards and conduct for members of the profession

12. The Tribunal first considered whether the facts found proved amounted to misconduct.

13. The Tribunal had regard to its findings as set out in its determination on the facts.

Misconduct and Impairment

14. Although the GMC has made no submissions on impairment, it falls to the Tribunal to determine that issue given its findings on the facts in this case. That exercise obliges the Tribunal first to consider whether it should make a finding of misconduct that is serious, and then, if it does, whether, thereby, Dr Ahmed's fitness to practise is impaired.

15. The Tribunal found proved paragraphs 2a and 2b (Patient A); 5a – 5d (Patient B); and 11 (Patient D). It is a matter of fact, as stated in the Tribunal's determination on the facts, that Dr Ahmed:

- "Recorded in Patient A's medical records that you carried out examinations of their:

    a. cardiovascular and respiratory symptoms;
    b. calves.

- Recorded in Patient B's medical records that you carried out an examination of their:

    a. shoulders;
    b. wrist;
    c. knees;
    d. hips.

- Recorded in Patient D's medical records that you carried out an abdominal examination."

16. These facts found proved were consistent with Dr Ahmed's case that he carried out these examinations and recorded them in his clinical notes. The Tribunal considered that none of these facts meet the threshold which could amount to misconduct.

17. Dishonesty was alleged in relation to paragraph 2 by reason of paragraph 3 of the Allegation; paragraph 5 by reason of paragraph 6; and paragraph 11 by reason of paragraph 12. In view of its findings, the Tribunal did not need to consider the allegation of dishonesty in relation to impairment.

18. In the circumstances the Tribunal does not find that Dr Ahmed's fitness to practise is impaired.

19. The Tribunal notes that there is no interim order to revoke.

20. That concludes the case.

ANNEX A – 05/12/2024

Application under Rule 34(1) to admit Hearsay Evidence

1. On 2 December 2024 (Day 1), prior to the case opening, Ms Ceri Widdett, Counsel for the GMC, made an application under Rule 34(1) of the General Medical Council ('GMC') (Fitness to Practise) Rules 2004, as amended ('the Rules'), to have admitted into evidence as hearsay the witness statement of Patient C.

Submissions

The GMC

2. The Tribunal was provided with the GMC's skeleton argument. In that written argument, Ms Widdett referred the Tribunal to relevant case law and set out the case for the GMC. She submitted that it was important to admit into evidence the witness statement of Patient C as it was relevant to paragraphs 7 – 9 of the Allegation. Ms Widdett submitted that the GMC had made all reasonable efforts to secure Patient C's attendance at these proceedings, however, due to health reasons, Patient C was unable to attend. Ms Widdett drew the Tribunal's attention to a letter received from Patient C's therapist, Ms K of NHS East Lincolnshire Talking Therapies, dated 3 July 2024, which, she said, set out the reasons why Patient C was unable to attend the hearing. Ms Widdett submitted that there is good reason for Patient C's non-attendance.

3. Ms Widdett submitted that it would be fair to admit Patient C's statement into evidence because there was no suggestion of any motivation on the part of Patient C to not tell the truth. Ms Widdett added that Patient C's witness statement is not the sole evidence relied upon by the GMC. She said that the GMC also relied upon the evidence of Dr J, who provides corroborative evidence as to the credibility of Dr Ahmed, specifically with regards to comments made about Dr Ahmed's examination of Patient C. Further, Ms Widdett submitted that the GMC would rely upon the other allegations before the Tribunal, which if found proved, would demonstrate evidence of Dr Ahmed's propensity to act as alleged. Ms Widdett went on to say that Dr Ahmed has had prior notice of the GMC's intention to make this application. She added that the absence of Patient C can fairly be reflected in the weight to be attached to her evidence.

4. Ms Widdett reminded the Tribunal that it was a matter for it as to what weight it attached to the hearsay evidence in due course. She invited the Tribunal to find that it was fair and in the interests of justice to admit the witness statements into evidence as hearsay.

Dr Ahmed

5. Dr Ahmed opposed the application. Dr Ahmed acknowledged the reasons why Patient C was unable to attend but told the Tribunal that he did not accept Patient C's evidence, and

that it was his intention to cross examine Patient C. He invited the Tribunal to refuse the application.

The Relevant Legal Principles

6. The Tribunal accepted the Legally Qualified Chair's legal advice, which essentially adopted the relevant sections of Ms Widdett's skeleton argument. It had regard to Rule 34(1) which states that:

> '*…a Tribunal may admit any such evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.*'

7. The Tribunal accepted that Rule 34(1) of the Rules gives it a wide discretion to admit evidence if it is fair and relevant to do so. It accepted that it must consider fairness from all perspectives and consider the over-arching objective.

8. The Tribunal had regard to the principles set out in *R (Bonhoeffer) v GMC* [2011] EWHC 1585 (Admin) and *Thorneycroft v NMC* [2014] EWHC 1565 (Admin).

Tribunal's Decision

9. The Tribunal considered the submissions made by the GMC. It was mindful that Dr Ahmed was unrepresented at these proceedings. It noted Dr Ahmed's position that he did not accept Patient C's evidence and that he wished to cross examine that evidence by way of questions being put to Patient C.

10. The Tribunal considered whether admitting Patient C's statement into evidence was relevant, whether the GMC had demonstrated a sufficiently good reason for Patient C's non-attendance at these proceedings, and whether it was fair to Dr Ahmed to admit Patient C's statement into evidence. The Tribunal was mindful that if it admitted Patient C's statement into evidence, it would in due course consider what weight to give to it when it made its determination at the end of the facts stage. The Tribunal was conscious that it was important to consider not only any prejudice to Dr Ahmed but also to the GMC, and to the public interest, and balance this with fairness to Dr Ahmed when reaching its decision. It was also mindful of all limbs of the overarching objective.

11. The Tribunal considered whether Patient C's evidence was relevant to the matters upon which it needed to make findings of facts. It noted that the matters alleged, as set out at paragraphs 7 – 9 of the Allegation, arise directly from Patient C's statement and the subsequent report of the GMC's expert. The Tribunal therefore determined that Patient C's witness statement was directly relevant to the alleged facts in this case as Patient C's consultation with Dr Ahmed was the subject of the allegations and the only direct evidence available.

12. The Tribunal considered whether the GMC had demonstrated a sufficiently good reason for Patient C's non-attendance at these proceedings. Ms Widdett referred the

Tribunal to the letter from Ms K, dated 3 July 2024. The Tribunal noted that in her letter Ms K stated in relation to Patient C:

> *'it is my professional opinion that the stress and pressure of appearing in court would exacerbate their symptoms substantially. The anxiety associated with public speaking and the adversarial nature of court proceedings can lead to a marked deterioration in their mental health. Such exposure is likely to cause an acute increase in anxiety levels and depressive episodes, which could potentially result in a crisis situation requiring immediate medical intervention. I strongly advise against (Patient C) being required to participate as a witness in any court proceedings. This recommendation is made with their best interest in mind, prioritising their mental well-being and stability'*.

13. Given that Patient C's non-attendance was due to her health reasons, as set out above, the Tribunal was satisfied that the GMC had demonstrated a sufficiently good reason for Patient C's non-attendance.

14. The Tribunal then considered whether it was fair to admit Patient C's statement into evidence. It had regard to the principles set out in *Bonhoeffer*, in particular:

> *'viii) In disciplinary proceedings which raise serious charges amounting in effect to criminal offences which, if proved, are likely to have grave adverse effects on the career and reputation of the accused party, if reliance is sought to be placed on the evidence of an accuser between whom and the accused party there is an important conflict of evidence as to whether the misconduct alleged took place, there would, if that evidence constituted a critical part of the evidence against the accused party and if there were no problems associated with securing the attendance of the accuser , need to be compelling reasons why the requirement of fairness and the right to a fair hearing did not entitle the accused party to cross- examine the accuser.*'

15. The Tribunal then went on to consider the fairness of admitting Patient C's statement as hearsay evidence, having regard to any unfairness arising from the consequence that the evidence would not be tested. The Tribunal had regard to whether and what, if any, corroborative evidence was before it, such that it could be satisfied of a fair hearing to Dr Ahmed, if it decided to grant the GMC's application. Having considered all of the evidence placed before it, the Tribunal came to the conclusion that it could not identify sufficient corroborative evidence. Dr Ahmed has indicated that he did not accept Patient C's evidence and that he would have asked questions of Patient C if she were present about her evidence. The absence of Patient C in these proceedings denies Dr Ahmed that opportunity.

16. The Tribunal was mindful that if the allegations relating to Patient C were found proved, this could have serious consequences for Dr Ahmed in terms of his medical career, personal circumstances, and reputation. The Tribunal was not satisfied that there was a satisfactory counter-balance to ensure a fair hearing to Dr Ahmed if it admitted Patient C's statement into evidence.

17. In the circumstances, the Tribunal determined that it would be unfair to admit Patient C's statement into evidence. The Tribunal therefore determined to refuse Ms Widdett's application using its powers under Rule 34(1) of the Rules.

ANNEX B – 17/12/2024

Application under Rule 17(6) to Amend the Allegation

1. On 9 December 2024, (Day 5), Ms Widdett made an application under Rule 17(6) to amend the Allegation as follows:

In relation to paragraph 1bi (by the deletion of the words 'or drink'), and paragraph 1dii (by the deletion of the words 'and drinking'):

1. On 17 March 2022 you consulted Patient A and you failed to:

b. consider the significance of Patient A's reported symptoms regarding their:

i. being unable to eat ~~or drink~~;

d. adequately record the consultation in Patient A's medical records in that you did not record that Patient A:

ii. was not eating ~~and drinking~~;

In relation to paragraph 10a (by the deletion of 10ai in its entirety)

10. On 23 May 2022 you consulted Patient D and you failed to:

a. obtain an adequate history in that you did not obtain information relating to the patient's axillary pain including the:

~~i. site of pain~~;

2. Ms Widdett submitted that the amendments should be made in light of the evidence of the GMC expert, Dr G. Ms Widdett submitted that the proposed amendments caused no injustice to Dr Ahmed and could be made without prejudice to him.

3. Dr Ahmed did not oppose the application.

The Tribunal's Decision

4. The Tribunal considered Rule 17(6) of the Rules which states:

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

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

(b) the amendment can be made without injustice,

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

5. The Tribunal was mindful that Dr Ahmed did not oppose the amendment. It also took into account that the amendments had been sought following Dr G's evidence.

6. The Tribunal considered that the proposed amendments could be made without injustice to Dr Ahmed. Accordingly, the Tribunal granted the GMC application to amend the paragraphs of the Allegation, as set out above.