PUBLIC RECORD

Dr Kuppuswamy has lodged an appeal against decisions of this Tribunal. His registration remains suspended while the appeal is considered.

Dates: 01/09/2025 – 03/10/2025; 21/01/2026 – 30/01/2026

Doctor:	Dr Velmurugan KUPPUSWAMY also known as Dr Vel
GMC reference number:	5208761
Primary medical qualification:	MB BS 1996 Tamil Nadu Dr MGR Med University

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Catherine Moxon
Lay Tribunal Member:	Mrs Hannah De Merode
Registrant Tribunal Member:	Dr Anup Singh

Tribunal Clerk:	Ms Racheal Gill 01 – 04/09/2025 Mr Larry Millea 08/09/2025 – 30/01/2026

Attendance and Representation:

Doctor:	Present, not represented
GMC Representative:	Mr Lee Fish, Counsel
Special Counsel:	Ms Fiona McNeill, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 26/01/2026

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

Background

2. Dr Kuppuswamy qualified in 1996. At the time of the events Dr Kuppuswamy was practising as a locum consultant cardiologist at Withybush Hospital, Pembrokeshire ('the Hospital').

3. The allegation that has led to Dr Kuppuswamy's hearing can be summarised as that, between August and October 2021, whilst he was working at Withybush Hospital, Dr Kuppuswamy behaved inappropriately towards Dr A and Dr B. It is further alleged that Dr Kuppuswamy's behaviour constituted sexual harassment, was sexually motivated and an abuse of his position.

4. The initial concerns were raised with the GMC on 22 October 2021 by Medacs Global Group limited, formally currently known as MGG Health limited.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal refused Dr Kuppuswamy's application, made pursuant to Rule 17(2)(a) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for an indefinite stay of proceedings on the grounds of abuse of process. The Tribunal's full decision on the application is included at Annex A.

6. The Tribunal refused Dr Kuppuswamy's application, made pursuant to Rules 34(1) and 35(5) of the Rules, to admit further evidence. The Tribunal's full decision on the application is included at Annex B.

7. The Tribunal refused Dr Kuppuswamy's application, made pursuant to Rule 29(2) of the Rules, to adjourn proceedings. The Tribunal's full decision on the application is included at Annex C.

8. Having sought submissions from parties, the Tribunal determined not to XXX, pursuant to Rule 17XXX of the Rules. The Tribunal's full decision on the application is included at Annex D.

9. The Tribunal refused Dr Kuppuswamy's application for the Tribunal to recuse itself. The Tribunal's full decision on the application is included at Annex E.

10. The Tribunal refused Dr Kuppuswamy's application to recall Dr B to give further evidence. The Tribunal's full decision on the application is included at Annex F.

11. The Tribunal refused Dr Kuppuswamy's application to exclude witness evidence of Dr A and Dr B. The Tribunal's full decision on the application is included at Annex G.

12. The Tribunal granted the GMC's application, made pursuant to Rule 34(1) of the Rules to admit hearsay evidence. The Tribunal's full decision on the application is included at Annex H.

13. The Tribunal refused Dr Kuppuswamy's application to be permitted to conduct the cross-examination of Dr A personally or, in the alternative, to be allowed to put specific questions directly, with the Tribunal or Legally Qualified Chair acting as an intermediary. The Tribunal's full decision on the application is included at Annex I, which also sets out a number of other applications made by Dr Kuppuswamy which the Tribunal did not determine but are recorded as a matter of record.

14. The Tribunal refused a further application by Dr Kuppuswamy for the Tribunal to recuse itself. The Tribunal's full decision on the application is included at Annex J.

15. The Tribunal refused Dr Kuppuswamy's application for a permanent stay of proceedings due to abuse of process. The Tribunal's full decision on the application is included at Annex K.

16. The Tribunal refused Dr Kuppuswamy's application on bias, contradiction, and curtailed cross-examination of Dr C. The Tribunal's full decision on the application is included at Annex L.

17. The Tribunal refused Dr Kuppuswamy's application for a permanent stay of proceedings due to an abuse of process on grounds of actual bias. The Tribunal's full decision on the application is included at Annex L.

18. The Tribunal refused Dr Kuppuswamy's application, made pursuant to Rule 34(1) of the Rules to admit further evidence. The Tribunal's full decision on the application is included at Annex L.

19. Dr Kuppuswamy made a further application for permanent stay of proceedings on the grounds of an abuse of process. The Tribunal concluded that as there were no new grounds on which this application was based, it was not required or appropriate for it to reach a further determination on the matters. The Tribunal's full decision on the application is included at Annex L.

20. The Tribunal refused Dr Kuppuswamy's further application, made pursuant to Rule 29(2) of the Rules, to adjourn proceedings. The Tribunal's full decision on the application is included at Annex M.

21. The Tribunal refused Dr Kuppuswamy's further application, made pursuant to Rule 29(2) of the Rules, to adjourn proceedings. The Tribunal's full decision on the application is included at Annex N.

22. The Tribunal refused Dr Kuppuswamy's application, made pursuant to Rule 17(2)(g) of the Rules, that there was no case to answer. The Tribunal's full decision on the application is included at Annex O.

23. The Tribunal refused Dr Kuppuswamy's further application for a permanent stay of proceedings on the grounds of abuse of process. The Tribunal's full decision on the application is included at Annex P.

24. On 3 October 2025 the Tribunal adjourned part-heard during its deliberations on the facts, due to insufficient time to conclude, before reconvening on 23 January 2026. The Tribunal determined to make case management directions as set out at Annex Q.

The Allegation and the Doctor's Response

25. The Allegation made against Dr Kuppuswamy is as follows:

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

1. At the time of your actions as set out in paragraphs 2-5:

    a. you were working as a locum consultant at Withybush Hospital ('the Hospital'); **Admitted and found proved**

    b. Dr A and Dr B were junior colleagues of yours. **Admitted and found proved**

Dr A

2. Between August 2021 and September 2021, you sent one or more inappropriate messages to Dr A, as detailed in Schedule 1. **To be determined**

3. On or around 9 September 2021, whilst attending a party in the communal area of your accommodation at the Hospital, you:

    a. hugged Dr A; **To be determined**

    b. touched Dr A's back; **To be determined**

    c. squeezed Dr A's waist; **To be determined**

    d. had a conversation with Dr A, during which you:

        i. grabbed Dr A's wrist; **To be determined**

        ii. squeezed Dr A's wrist; **To be determined**

iii. pulled Dr A towards you; To be determined

iv. smirked at Dr A; To be determined

v. told Dr A she was a 'bad girl' in response to her making a comment to you about smoking being bad for your health, or words to that effect; To be determined

vi. winked at Dr A; To be determined

e. carried out the actions described at paragraph 3.d.i-3.d.iii despite the fact that Dr A, on one or more occasion:

i. tried to pull away from you; To be determined

ii. told you:

1. that you were hurting her; To be determined

2. to let go of her wrist; To be determined

f. on one or more occasion:

i. followed a group of female work colleagues (which included Dr A) when they moved to a different area of the party; To be determined

ii. stared at the group of female work colleagues referred to in paragraph 3.f.i whilst they were:

1. dancing; To be determined

2. standing in the kitchen; To be determined

g. whilst playing ping-pong against Dr A and Dr B:

i. made a forward thrusting motion with your chest; To be determined

ii. told them:

1. they should use their chests as paddles; To be determined

2. their chests, or being well-endowed in that area, was an advantage in the game; To be determined

or words to that effect. To be determined

4. Between August 2021 and October 2021:

a. you received one or more telephone calls from Dr A to discuss a death certificate during which you made an inappropriate comment to Dr A in that you said 'If you want to get in touch with me, there are easier ways', or words to that effect; To be determined

b. on one or more occasion you:

i. sat very close to Dr A on the sofa; To be determined

ii. leant into Dr A; To be determined

iii. draped your arm behind Dr A on the sofa; To be determined

iv. moved along the sofa when Dr A tried to move further down the sofa; To be determined

c. whilst walking to the lift, on or around 13 September 2021, you:

i. grabbed Dr A's arm; To be determined

ii. squeezed Dr A's arm; To be determined

iii. smirked at Dr A; To be determined

iv. leaned in and whispered, 'Cheeky girl', or words to that effect; To be determined

v. carried out the actions described at paragraphs 4.c.i-4.c.ii despite Dr A telling you that you were hurting her. To be determined

<u>Dr B</u>

5. On 9 September 2021, whilst attending the party referred to at paragraph 3 above:

a. you stared at Dr B whilst she was dancing; To be determined

b. you told Dr B 'You both look good dancing, go on keep doing that sexy dancing for me', or words to that effect; To be determined

c. whilst sitting at a table, you:

i. pulled your chair close to Dr B; To be determined

ii. positioned yourself to the side of Dr B so that you were touching shoulders with her; To be determined

iii. put your hand on top of Dr B's thigh; To be determined

iv. squeezed near Dr B's groin area. To be determined

6. Your actions as set out at paragraphs 2-5:

a. constituted sexual harassment as defined in Section 26 (2) of the Equality Act 2010, in that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for:

i. Dr A (in respect of paragraphs 2-4); To be determined

ii. Dr B (in respect of paragraph 3g and paragraph 5); To be determined

b. were sexually motivated; To be determined

c. were an abuse of your position. 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

26. At the outset of these proceedings, Dr Kuppuswamy made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Witness Evidence

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

- Mr D, Dr B's fiancé, in person;
- Dr E, medical student at the Hospital at the time of events, in person;
- Dr F, Locum Consultant in General Medicine at Hywel Dda Local Health Board ('the Health Board'), in person;
- Dr C, Consultant Physician at the Hospital, in person.

28. The following witnesses were cross-examined on Dr Kuppuswamy's behalf by Ms Fiona McNeill, Special Counsel appointed by the MPTS pursuant to Rule 36 (5):

- Dr A, in person;
- Dr B, in person.

29. The Tribunal also received evidence on behalf of the GMC in the form of a police witness statement from Dr G, medical student at the Hospital at the time of events, dated 29 December 2023.

30. In addition, the Tribunal received evidence from the following witness on Dr Kuppuswamy's behalf:

- Dr H, Foundation Year 1 ('FY1') doctor at the Hospital at the time of events, in person.

31. Dr Kuppuswamy, who was not represented, did not provide a witness statement but gave oral evidence at the hearing and provided written submissions.

Documentary Evidence

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

- Email referral from Medacs Global to GMC dated 22 October 2021;
- Police Record of Taped Interview of Dr Kuppuswamy dated 15 January 2022;
- Police Witness Statement of Dr F dated 17 May 2022;
- Police Witness Statement of Dr A dated 22 October 2021;
- WhatsApp Messages between Dr A and Dr Kuppuswamy various dates 31 August 2021 to 9 September 2021;

- Police Witness Statement of Dr B dated 1 January 2022;
- Police Witness Statement of Dr E dated 1 January 2022.

The Tribunal's Approach

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

Sexual motivation

34. The term 'sexually motivated' is defined in the case of *Basson v GMC [2018] EWHC 505* as: '*A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship*'. The Tribunal must be satisfied on the evidence that there was a specific intent. Sexually motivated conduct is not the same as carelessness, recklessness or negligence.

35. The Tribunal must consider if there is a plausible alternative explanation before determining if the conduct was sexually motivated.

Sexual harassment

36. Sexual Harassment is defined at section 26(2) of the Equality Act 2010 which is set out in the Allegation:

> *"that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment"*

37. In cases of harassment pleaded with reference to the Equality Act, harassment can be made out where there is a single instance of conduct.

38. In cases of sexual harassment it is no less sexual harassment simply because the registrant had no intention to take matters further.

Cross admissibility

39. There are two primary grounds on which evidence may be cross-admissible. Namely, (a) where it may establish propensity to commit that kind of conduct and/or (b) where it may rebut coincidence (*Freeman [2008] EWCA Crim 1863* at [14] and [15]).

40. The Tribunal will need to decide on which ground or grounds it is being asked to cross admit the evidence and advise itself accordingly, in terms that are relevant to and reflect the particular circumstances in which the questions of cross-admissibility arise (Brennand [2023] EWCA Crim 1384).

41. The Tribunal will need to take care to distinguish clearly between the grounds and will not advise itself on the other ground if only one ground is applicable, in order to avoid confusion (*Nicholson [2012] EWCA Crim 1568* and *BQC [2021] EWCA Crim 1944*).

42. The Tribunal will need to consider whether the evidence in question is capable of being cross-admitted, by evaluating whether there is a sufficient connection and similarity between the facts of the allegations (*Chopra [2006] EWCA Crim 2133*).

43. Where the evidence is cross-admitted to prove propensity in a case involving two allegations, before attaching weight to the evidence the Tribunal will need to be satisfied to the required standard that the first allegation took place before relying on evidence in respect of the first allegation to deduce propensity from the second allegation (*Adams [2019] EWCA Crim 1363* at [14] and *R v Mitchell [2016] UKSC* at [43])

44. Where the evidence is admitted to rebut coincidence, before attaching weight to the evidence the Tribunal will need to advise itself that (a) it must exclude collusion or contamination as an explanation for the similarity of the complainants' evidence before it can assess the force of the argument that the allegations are unlikely to be the product of coincidence, (b) if collusion or contamination is excluded, considering the evidence as a whole, the fact of two patients making such allegations reduces the likelihood of there being an innocent explanation for them (*R v H [2011] EWCA Crim 2344* at [24]) and (c) it is not necessary to find one allegation to be proved before relying upon the evidence in respect of

that allegation in support of the other allegation concerning the other patient (*Adams [2019] EWCA Crim 1363* at [15]).

45. Care must be taken with cross-admissibility. The two limbs should not be confused nor conflated as the risk is that the law is wrongly interpreted and misapplied.

Assessing evidence

46. The Tribunal will need to consider all of the evidence that goes to a charge and decide if that evidence is: a) credible; b) reliable; and c) relevant. That is all part of the assessment of weight.

47. This is a case to which the decision in *R. (on the application of Dutta) v The General Medical Council* [2020] EWHC 1974 (Admin) is of relevance

a. Tribunals can only make factual findings against a doctor which are based on an interpretation of events that has previously been disclosed to them and in respect of which they have been provided with adequate opportunity to investigate, call evidence and make submissions.
b. Tribunals should base factual findings on inferences drawn from documentary evidence and known or probable facts and use oral evidence to subject the documentary records to critical scrutiny and to consider the witness's personality and motivation. Tribunals should assess the evidence in the round.
c. Tribunals should not assess a witness's credibility exclusively on their demeanour when giving evidence. A witness's veracity should be tested by reference to the objective fact(s) proved independently of their testimony, in particular by reference to the documents in the case.
d. Tribunals should make a rounded assessment of a witness's reliability, rather than approaching their reliability in respect of each charge in isolation from the others.

Hearsay/indirect evidence

48. There is some 'indirect' evidence in this case in the documents before you. There are also elements of 'hearsay'. There is no prohibition in these proceedings on relying on such evidence but you must weigh it up particularly carefully and assess the relevant strengths and weaknesses of the evidence; the fact that the evidence has not been subjected to testing before the tribunal; and whether there is other evidence that displaces or supports that evidence.

The Tribunal's Analysis of the Evidence and Findings

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

50. The Tribunal have set out an analysis below of its reasoned decisions. Where patterns in reasoning have developed this is set out together and is not repeated for each sub allegation. The principles of *R. (on the application of Dutta) v The General Medical Council [2020] EWHC 1974 (Admin)* were carefully followed when assessing witness evidence.

51. Dr Kuppuswamy's case has been that he was an innocent whistleblower who has found himself before the Tribunal as the victim of a series of orchestrated lies; the victim of a conspiracy. The Tribunal reject that Dr Kuppuswamy's whistleblowing had anything at all to do with these allegations. The whistleblowing events were separate. Dr Kuppuswamy's case is that the whistleblowing underpinned everything else. The Tribunal find this to be incorrect.

52. The reasoning for rejecting the relevance of the whistleblowing is set out below. Where additional reasoning developed when discussing individual sub paragraphs including whether or not the content of Dr A's account was her own or Dr C's that is recorded here so that reasoning linked to this theme is all in one place. Decisions were not made prematurely about witness credibility and reliability.

Whistleblowing

53. Throughout proceedings, Dr Kuppuswamy advanced the position that the Allegation against him was as a result of his 'whistleblowing' in relation to performance concerns he raised in relation to another doctor at the Hospital, Dr I. Dr Kuppuswamy variously stated that Dr A and Dr B were 'confabulating' events and suggested that Dr B may be suffering from XXX from a previous traumatic experience and so was an unreliable witness. In response to a question from Mr Fish during his oral evidence, Dr Kuppuswamy confirmed that his position was that the allegations were entirely fabricated to target him as a result of him raising whistleblowing concerns, and were not misperceptions of innocent events or false memories, but deliberate lies.

54. Dr Kuppuswamy made reference to a WhatsApp group chat titled '[XXX]' which Dr A was part of. The Tribunal considered that the messages from this group that it had been provided did not demonstrate that the allegations were part of a campaign against him due

to the 'whistleblowing'. Dr Kuppuswamy's written submissions were that this group demonstrated prejudice and that Dr A's account was shaped by gossip about what occurred at the party. The Tribunal did not accept that the evidence in relation to the '[XXX]' supported this assertion.

55. Dr Kuppuswamy's position was that Dr C had coordinated the allegations from various colleagues in retaliation for his 'whistleblowing' regarding Dr I's clinical performance.

56. The Tribunal considered that Dr Kuppuswamy's own evidence, that it had read and heard, largely contradicted and seriously undermined this assertion. By Dr Kuppuswamy's own account, Dr I was widely known at the Hospital for his lack of clinical competence, which Dr H's evidence also supported.

57. The Tribunal heard evidence, which it accepted, that as a locum doctor, Dr Kuppuswamy could have been released from his role easily and quickly and so it made it all the less likely that Dr C had coordinated all of the witnesses to remove him to protect herself as Dr Kuppuswamy had repeatedly stated.

58. Dr Kuppuswamy criticised how Dr C handled the whistleblowing events. Dr Kuppuswamy hypothesised that Dr A, Dr B, Dr E and Dr G were recruited to support Dr C and each other to protect Dr C from the errors she had made in her investigation and handling of the whistleblowing matters.

59. Dr C's evidence was that there were known concerns about Dr I's clinical capabilities, which were being monitored, and that as such, when Dr Kuppuswamy raised concerns about Dr I's clinical conduct, she did not initially consider this to be 'whistleblowing' but rather feedback and an assessment in relation to his known ongoing performance issues.

60. The Tribunal found no credible evidence to support the claim that Dr A and Dr B, nor Dr E and Dr G, were recruited by Dr C or that they had a reason to follow through on such a scheme.

61. Dr B had only been at the Hospital for XXX, and the Tribunal found the suggestion that she would agree to, and conduct such a plan for Dr C inherently unlikely. In addition, other witnesses gave evidence in support of Dr B's account.

62. The Tribunal considered it highly improbable that Dr C had orchestrated such a conspiracy against Dr Kuppuswamy.

63. The Tribunal did acknowledge that Dr C was involved in multiple aspects of Dr Kuppuswamy's case. After hearing Dr C's evidence it was clearer why this had occurred. Dr C provided explanations and justifications as to her roles and decision-making at time, in the context of the number of staff available to do the work and Dr C's role in oversight at the Hospital.

64. During her evidence Dr C stated that she had not assisted Dr A in drafting her initial Medacs statement. This was contradicted by the account of Dr A, who stated that Dr C had asked her about events and written them down to submit. Whilst the Tribunal accepted that this was an inconsistency, it was not of the opinion that this undermined Dr C's evidence in relation to her role generally, and did not consider this to be indicative of an attempt to deceive or falsify information by Dr C.

65. The Tribunal did not need to resolve whether or not Dr C assisted Dr A in reducing her witness statement to writing. However, the Tribunal considered this alongside consideration of Dr Kuppuswamy's defence. The Tribunal decided that even if Dr A's Medacs statement was assisted by Dr C, acting in her senior role, it was satisfied that there was no indication or evidence that Dr A was pressured or led by Dr C into what her account would be. The content of Dr A's statement was her own and for that reason little weight is attached to what else Dr C did as any role other than creating the content is peripheral.

66. The Tribunal was also satisfied that this inconsistency in Dr C's account did not undermine the credibility of Dr A's account which Dr A provided for the Medacs statement, and which was reiterated and elaborated on in her police and GMC witness statements.

67. The Tribunal was therefore satisfied that, on the balance of probabilities, the Allegation against Dr Kuppuswamy was not a conspiracy orchestrated by Dr C and determined that all the other witness evidence it had heard was to be considered and weighted appropriately. Dr Kuppuswamy did not have to prove anything at all. He has raised whistleblowing as part of his defence and the GMC evidence has firmly disproved that this had any relevance whatsoever on any of the GMC witnesses.

68. Dr Kuppuswamy's evidence on this point was unreliable, speculative and sought repeatedly to vehemently raise irrelevant themes and make unsubstantiated and false claims against others.

Dr A

Paragraph 2

69. It was agreed that the messages were sent by Dr Kuppuswamy to Dr A. In his written submissions Dr Kuppuswamy stated that:

> *"Read in context, the WhatsApps themselves are plainly social, friendly, and reciprocated. Dr A did not object at the time, responded with emojis and humour, and continued to invite the Registrant to socials. The claim of "discomfort" only arose in her 2023 GMC statement and is contradicted by her contemporaneous conduct and earlier statements.*
>
> *… The tone was ordinary and friendly, with no element of impropriety. There is nothing sexual intended, inclined, or implied."*

70. In considering whether the messages sent to Dr A by Dr Kuppuswamy were inappropriate, the Tribunal noted the message chain provided within the hearing bundle. Following the messages as set out at Schedule 1 of the Allegation, Dr A messaged:

> *"Haha unfortunately I will be in* [XXX] *on a course the next social I can attend I will be dancing though"*

to which Dr Kuppuswamy replied:

> *"OK I will come for the next one then. Damn it. I am disheartened."*

71. The Tribunal heard evidence that Dr Kuppuswamy had obtained Dr A's telephone number through a group social chat for colleagues. The documentary evidence was not clear as to why Dr Kuppuswamy had initiated one-to-one communication with Dr A in relation to social events as prior to this they had no personal relationship or social interactions.

72. The Tribunal considered that Dr Kuppuswamy was a Consultant sending overfamiliar messages directly to a junior colleague. The Tribunal was of the opinion that the messages

sent by Dr Kuppuswamy went beyond being neutral or friendly and were flirtatious and suggested some sort of affection.

73. Whilst Dr Kuppuswamy was reluctant to accept that there was a power differential between himself and Dr A as he was only a *Locum* Consultant, he did refer to Dr A and Dr B as *"girls"* multiple times. The Tribunal was satisfied that Dr A was a junior colleague and that there was a power imbalance due to Dr Kuppuswamy's seniority, which was reflected by Dr A's perception of events and their professional relationship.

74. The Tribunal considered that calling a junior colleague *"a perfect sweetheart"* and asking her to dance with him was in itself inappropriate because of their lack of personal relationship and due to the pressure the imbalance of power was likely, and did, put on Dr A. Dr A's evidence was that the WhatsApp messages made her feel uncomfortable and that sending them was "*wrong on all kinds of levels*".

75. However, the Tribunal did not assess the messages in isolation. It placed significant weight on the wider context, including:

- the seniority of Dr Kuppuswamy as a Consultant and Dr A's junior status;
- the absence of any pre-existing personal or social relationship;
- the initiation of one-to-one contact using a number obtained through a professional group chat;
- Dr A's perception of the messages and the discomfort she reported to the Tribunal; and
- the existence of other allegations which informed the Tribunal's overall assessment of Dr Kuppuswamy's conduct.

76. It was this cumulative context rather than the wording of the messages alone that led the Tribunal to conclude that the communications were overfamiliar and flirtatious, and therefore inappropriate. While the messages might otherwise be regarded as relatively innocuous, the Tribunal found that, when viewed against the backdrop of a clear power imbalance and the broader evidential picture, they crossed professional boundaries.

77. The Tribunal therefore found paragraph 2 of the Allegation proved.

Paragraph 3

3(a)

78. In her GMC witness statement dated 24 August 2023 Dr A states:

"I was not comfortable with Dr Vel [Dr Kuppuswamy] hugging me as I didn't know him and the only real contact I'd had with him to this point was the handful of WhatsApp messages over the past week or so which had come across as odd. I was one of the first people Dr Vel hugged. Dr Vel went for me, so he stepped towards me and put his arms out, aimed at my waist, enveloping me saying 'Hi Dr A'. I wouldn't push a consultant away and I didn't have a choice in how I responded. I was just standing there and did not have my arms held out towards him. I'm not tall and Dr Vel was taller than me. Because of our respective heights and how Dr Vel came at me, my arms ended up around his shoulders and both his hands were on my waist and squeezing. Dr Vel's hands were crossed over on my lower back, flat to my back, quite low and I felt uncomfortable. When he trailed his hands away, they went around and over my waist and he then left one hand on my waist. Dr Vel's hands seemed to linger on my waist and it felt that he was making the contact last as long as possible.

…this may have lifted my shirt up enough for his fingers to make contact with my skin. As the statement I gave to the police was closer in time to when this occurred, I would trust this recollection more."

79. In her police witness statement dated 22 October 2021 Dr A stated:

"When he arrived, Dr Vel came and greeted everyone. I noticed that with every female he greeted, he would specifically go for a hug around their waist, leaving his hands on the smallest part of their waist. Dr Vel came up to me and did the same thing, leaving his hands holding on to my waist and lingering there. I was wearing a shirt and his hands had moved slightly underneath the bottom of my shirt and he had skin to skin contact with my waist. It felt very, very uncomfortable and I had to gently move his hands from my waist and moved over to another group of girls."

80. In her Medacs statement dated 4 October 2021 Dr A stated:

"When he arrived he greeted everyone but specifically hugged all the females including myself and lingered slightly too long and pressed too hard to be comfortable on my waist – I eventually had to move myself away to get his hand off my waist."

81. Dr Kuppuswamy's account was that there was no hug at all, that there were inconsistencies in Dr A's account and that if such a hug had happened it would have had to have been mutual due to body mechanics and arm placement.

82. In his written submissions, Dr Kuppuswamy stated:

"Dr A stated in oral evidence (2025) that she had "grown up" since 2021, implying her height had changed after the age of [XXX]*, which is biologically impossible. Her own account makes the alleged hug anatomically implausible without her active participation (raising arms, tip-toeing)"*

83. Dr Kuppuswamy repeated this in his oral submissions, stating *"she said she's taller now. She grew after age* [XXX]*. That would be medical miracle."*

84. The Tribunal did not record Dr A stating that she was '*taller* ' or words to that effect and noted that the transcripts of proceedings thus far, which had been provided to parties did not record this, although did include Dr A stating *"From my recollections, this was many years ago, I was a smaller person* ***than*** *Dr Kuppuswamy."* The Tribunal reject the suggestion that Dr A was holding herself out as having grown taller or being a medical miracle.

85. Dr Kuppuswamy also submitted that Dr A had been demonstrably dishonest, stating that Dr A gave a police witness statement on 22 October 2021 under declaration stating: *"This was a non-alcohol party as everyone was driving."* In her later GMC witness statement under declaration on 24 Aug 2023 she directly contradicted this and stated: *"There was alcohol at the party and I had a couple of drinks myself. I was not drunk, but I had been drinking."* Dr Kuppuswamy submitted that these are mutually exclusive statements and that either Dr A misled the police in 2021, or she misled the GMC in 2023 and that this was not a memory drift but a categorical contradiction.

86. The Tribunal considered the police witness statement of Dr A, which stated: *"The party started and we were having a barbecue. It wasn't a drinking party as such, as most were driving home afterwards, so it was quite a chilled out low key party with people just chatting and having a nice time."*

87. The Tribunal was satisfied that Dr A's accounts were broadly consistent and not examples of dishonesty at all and did not fundamentally undermine the credibility of her evidence in its entirety, as submitted by Dr Kuppuswamy.

88. Dr Kuppuswamy also submitted that normally human memory reduces over time but that Dr A's memory appears to have grown *"exponentially"*, that this is not how human memory works and that she is *"confabulating"* or *"inventing"* things in her mind, which is *"dangerous"*. He submitted that the inevitable inference is that this detail is a reconstruction of memory or imagination, not fact, and that a Tribunal cannot properly make findings of misconduct on the basis of retrospective embellishment that is contradicted by contemporaneous statements and directly refuted by independent GMC witness evidence.

89. The Tribunal considered that Dr A's account was consistent throughout that a hug had occurred, instigated by Dr Kuppuswamy and that the slight inconsistencies in her account, including whether it had rained at all on the day of the party and exactly what Dr A was wearing, did not undermine her credibility.

90. In terms of the increased level of detail in her accounts, the Tribunal considered that the statements described the same events in general terms. The Tribunal observed that it was not unusual for a GMC witness statement, taken by the GMC, to include more detail or elaborate on the specifics of the Allegation when asked to do so by the GMC. This reflects the difference between a statement being taken for police purposes and a further statement being taken for GMC purposes. The Tribunal was not of the opinion that these additional details reflected material changes in Dr A's account or that they were indicative that she was lying or 'confabulating' over time.

91. The Tribunal also heard evidence from Dr A that she had not discussed the specifics of the case with her partner, as she asked whether she could now discuss this with him when she was released from her affirmation. The Tribunal found this added weight to her account and that she was seeking to protect the integrity of her evidence.

92. Dr Kuppuswamy also submitted that Dr A's memory had been affected by alcohol, and whilst Dr A's evidence was that she had been drinking some alcohol, there was no evidence that she was drunk, and so the Tribunal did not attribute any weight to that assertion.

93. The Tribunal heard evidence from Dr A that she had thought Dr Kuppuswamy was a good doctor and had worked hard to get to his position. Mr Fish, on behalf of the GMC, submitted that this strengthened her account and the overall assessment of her credibility and reliability. Dr A's evidence was that she found it difficult to reconcile Dr Kuppuswamy's behaviour towards her with his behaviour as a good doctor and good clinician, and the Tribunal was of the opinion that this balanced view of Dr Kuppuswamy added weight to her credibility and account of events.

94. Dr Kuppuswamy's evidence was not credible. Dr Kuppuswamy was not balanced in his evidence. His evidence was unfocussed as he choose to blame others and raise distractions such as suggesting that a hug was not physically possible in the manner alleged by Dr A and that she was lying about becoming taller at an adult age. Whilst the Tribunal fully appreciate to difficulty of the task of giving evidence, especially when self-representing, Dr Kuppuswamy presented as an unreliable and untruthful witness.

95. The Tribunal determined that, on the balance of probabilities, Dr Kuppuswamy had hugged Dr A and therefore found paragraph 3(a) of the Allegation proved.

3(b)

96. The Tribunal noted that only Dr A's GMC witness statement specifically makes reference to Dr Kuppuswamy touching her *"back"*. It considered that the GMC witness statement provided a more detailed description of the hug, which was consistent with her earlier descriptions, and which she explained during her oral evidence. The Tribunal also noted that references to placing hands on or around waists would be likely to include the back, depending on the positioning.

97. Applying ordinary language to the word *"back"* the Tribunal were not troubled by whether the touch was anatomically the back or the back of the waist. For these purposes, and during a hug, they mean the same thing.

98. Accordingly, the Tribunal found paragraph 3(b) of the Allegation proved.

3(c)

99. The Tribunal considered that only Dr A's GMC witness statement specifically refers to *"squeezing"* but that her Medacs statement also mentions Dr Kuppuswamy "*pressed too hard to be comfortable on my waist*". Ultimately, as at paragraph 3(b), Dr A's various accounts

were consistent with Dr Kuppuswamy squeezing her waist, and reflected differing levels of detail in her description, and words used for, the same sequence of events when she was hugged by Dr Kuppuswamy.

100. Accordingly, the Tribunal found paragraph 3(c) of the Allegation proved.

3(d)

101. In her GMC witness statement, Dr A states that:

> *"As I came to pick up the plates, I moved his cigarettes with my right hand and then went to reach for something with my right hand and whilst I was doing this I made the comment to him about smoking being bad for your health. At this point, Dr Vel was between one and two feet away from me. As soon as I'd said this, Dr Vel grabbed my right wrist forcibly and pulled me towards him, and said I was a 'bad girl''.*
>
> *When he said this, Dr Vel had a strange look in his eye and was smirking at me. At this point, I was leaning diagonally over the table and off balance due to the position I was in and when Dr Vel grabbed my wrist he pulled me a bit further towards him. I felt exposed as my breasts were what felt like right there in front of him and for him to see as I was bending over in a loose summer shirt. It just felt so wrong. I tried to pull away from Dr Vel but he didn't let go of my right wrist and I couldn't make him. I said, 'Please let go of my wrist' and had to say it twice and really pull before he let go. I'm not sure I could have released myself from his grip alone and once he let go, there were red marks on my right wrist, two or three oval shaped fingerprint/thumbprint shapes where Dr Vel's fingers had been. The red marks faded slowly over the next hour. I don't know if anyone else saw the marks and I didn't show them to anyone. No one commented on them. They were on the inside of my wrist so would not have been as obvious to casual observers. Dr Vel was much bigger and stronger than me so was able to squeeze my wrist really hard. I do* [XXX] *and I could only liken it to someone trying to put me in a lock so I could feel Dr Vel's muscles working really hard. When you put someone into a lock, the intention is to stop them moving or getting away and this is exactly how this felt."*

102. Dr A's police statement records that:

> *"Dr Vel has grabbed my right wrist really tightly as I went to move his cigarette packet. His grip was very, very tight and far tighter than was necessary. It was painful and I*

said 'OW' and looked at him. By my wrist, he pulled me down towards him and put me off balance, especially as my other hand was holding dirty crockery.

As Dr Vel pulled me in close towards him, he told me that I was a 'BAD GIRL' and winked at me. I dropped his cigarettes and told him he was hurting me, but Dr Vel didn't let go. I said again 'PLEASE LET ME GO' and pulled my right arm back. He released his grip very slightly so that I could pull away, but he didn't let go. I went into the communal kitchen and looked at my wrist because it hurt. There were red marks from his fingers were he had gripped me which lasted about half an hour."[sic]

103. In her Medacs statement, Dr A states:

"Dr Vel grabbed my wrist very hard and told me I was a 'bad girl'. I told him he was hurting my wrist but he did not let go. I had to ask him to let go of my wrist before he stopped."

104. Dr Kuppuswamy's account was that such a situation did not occur and that Dr A was making up or 'confabulating' events.

105. The Tribunal noted that Dr A's account was broadly consistent throughout and that her GMC witness statement described the same or similar events and actions in more detail. The Tribunal was of the opinion that Dr A's evidence on this matter, including her oral evidence, was credible and persuasive and stood up to scrutiny.

106. The Tribunal considered that whilst a *'smirk'* may be a subjective description, in the context of the situation, this was a reasonable perception and categorisation.

107. The Tribunal determined that Dr Kuppuswamy had acted in the manner alleged and found paragraph 3(d) of the Allegation proved in its entirety.

3(e)

108. As at paragraph 3(d), the Tribunal found Dr A's evidence consistent and credible. In her various accounts, Dr A described the same events in varying levels of detail, and the Tribunal found no inconsistencies which would undermine her evidence, which it accepted.

109. The Tribunal heard evidence that these events occurred outside and whilst there was no evidence that anyone else had witnessed Dr Kuppuswamy's actions, it was not described

as an extended action or in the presence of other witnesses as it occurred during a social event where people were *"milling around".* The Tribunal reject the argument that if no-one else saw these incidents taken place it was because they did not happen.

110. Accordingly, the Tribunal found paragraph 3(e) of the Allegation proved.

3(f)(i)

111. In her GMC witness statement, Dr A stated that:

> *"Later on, a group of five or six female junior doctors were dancing outside in the courtyard when we noticed Dr Vel watching us. It was like a prickly feeling where you feel you're being watched but Dr Vel wasn't outright staring at us. Dr Vel was on his phone but every so often, would look up at us dancing and watch for about 20 seconds and he did this enough times for it to be clear to us that he was watching us dancing. Dr Vel wasn't interacting with anyone else. It was a bit like being in a nightclub, where you want to get away from a situation, and we kind of all said something about going inside and not wanting to be outside anymore as it was cold.*
>
> *From the courtyard, you passed through a door into a room that just had a ping pong table in it, then through to a living room and then to a kitchen which is a dead end. There was no one else in the living room at this point, others were in the ping pong room and outside. We all moved into the living room area and before long, Dr Vel came in and sat down on one of the sofas, again doing the same thing as he'd done in the courtyard, looking at his phone then regularly at us dancing. There was no reason for him to come into the living room. We noticed him straightaway so again, we made some noises about fancying going to the kitchen, this was just to get away from him although we did not verbalise this, and we closed the door. The kitchen is tiny and so the five or six of us could basically only bob up and down but we were fine with this.*
>
> *Before long, Dr Vel opened the kitchen door, which was a deliberate thing to do, and stood in the doorway of the kitchen and by standing there, he was effectively blocking the only exit. There was no room in the kitchen for Dr Vel to actually come into the room as it was so small and we were filling it. Dr Vel was not using his phone when he stood in the doorway and he wasn't talking to us, just silently watching us which was really offputting. Dr Vel stayed for two or three songs and then moved out of the doorway so we were able to leave. As a female going to clubs, you learn techniques to avoid confrontation and not draw attention to yourself and I felt very much like this*

when he was standing in the doorway of the kitchen. I was waiting for Dr Vel to move and as soon as he did, I and the others all left the room saying something like, 'that's enough dancing'. We had only been dancing for about 10 to 15 minutes or so and would have carried on if he wasn't there. Dr Vel was no more than one to two feet away from the group when we were in the kitchen and he was possibly half a metre away from us when we were dancing in the living room. Dr Vel got progressively closer to us from being in the courtyard until he was in the doorway of the kitchen and at no point said anything to us.

It was clear to me that Dr Vel was following us as we would move away and we'd think we'd gotten away from him and then he would reappear. I would say it took less than the length of one song, so a couple of minutes, before Dr Vel would reappear. There was enough of gap for us to get into the new room and start dancing again. Looking back, maybe Dr Vel wanted to sit in the living room on the sofas but then why move to the kitchen? It seemed that Dr Vel's movement was a pattern rather than a coincidence."

112. Dr Kuppuswamy denied the allegation, stating that he had stayed in one spot, that he did not go into the kitchen at all and that dancing did not happen.

113. Dr A's account as set out above was a more detailed description of events matching what she stated in her earlier Medacs and police statements, with Dr Kuppuswamy pursuing the group around the party and watching them.

114. Dr B's witness statement stated that *"As we were dancing and moving around, I noticed him looking and staring at me and* [Person J]*."*

115. The Tribunal concluded that, on the basis of the evidence before it, Dr Kuppuswamy had followed a group of female work colleagues (which included Dr A) when they moved to a different area of the party, on multiple occasions. Dr A's account of evidence was more credible than Dr Kuppuswamy's.

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

3(f)(ii)

117. The Tribunal considered Dr A's evidence had not described Dr Kuppuswamy as *"staring"* at her and her colleagues, but rather that he was watching them and that this made

her uncomfortable. Dr B's GMC witness statement was that Dr Kuppuswamy was *"looking and staring"* at her.

118. In her GMC statement, Dr B described Dr Kuppuswamy as *"looking and staring"* at her. The Tribunal considered that the fact that Dr B did not specifically mention *"staring"* in her police statement did not undermine her account, which was largely consistent in its description of Dr Kuppuswamy's behaviour. She also described Dr Kuppuswamy *"leering"* in her GMC witness statement. The ordinary meaning of these words mean the same thing in this context.

119. Whilst Dr H's evidence was that she had not seen anyone dancing during her time at the party, given that both Dr A and Dr B described dancing, the Tribunal concluded that on the balance of probabilities, they had been. Both Dr A and Dr B were credible witnesses. The Tribunal reject Dr Kuppuswamy's argument that Dr H's evidence should be interpreted as that as she did not see dancing no dancing occurred. The Tribunal accept that Dr H was also a credible witness. However, it is likely that the dancing occurred and occurred outside of the observation of Dr H, who had no reason to particularly notice or focus on whether or not others were dancing whilst the music at the party was playing over a time period of several hours.

120. The Tribunal considered whether Dr Kuppuswamy had simply looked or *"stared"* at the group of female work colleagues, and was mindful that *"staring"* implies more than simply looking at someone or in their direction. The Tribunal concluded that, on the balance of probabilities, Dr Kuppuswamy had said words to the effect of *'You both look good dancing, go on keep doing that sexy dancing for me'* and that in this context, he had *'stared'* at the group of female work colleagues while they were dancing and standing in the kitchen. In light of the actions leading to and surrounding the events, the Tribunal did not accept that Dr Kuppuswamy had been innocently watching them.

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

<u>3(g)</u>

122. In her GMC witness statement, Dr A stated that:

> *"A little later on, there was probably around ten people left at the party by now. I was in the room with the ping pong table and there were quite a few people in there, all switching in and out of teams to keep things fair. Dr B and I were on the same team*

playing against another two people when Dr Vel came into the toom and switched with one of the players opposite us. Several times, when Dr Vel served and returned the ball, the ball would hit one or both of our chest areas near or between our breasts. This can happen accidentally when playing ping pong, and had happened when other people had been serving or returning, but they did not make any comment on it. Dr Vel however made a forward thrusting motion with his chest like he was pushing out his chest and said that we should use our chests as paddles and that they were an advantage in the game which was nonsense as it's actually very difficult to do that practically.

Dr Vel didn't use the words 'boobs', 'breasts' or 'tits' but used the word chest but only said that to me and Dr B and I took it to mean that we could catch the ping pong balls with our breasts. Dr B had [XXX] *breasts and my breasts would catch the ball if it hit there. Inferring Dr B and I use our breasts made his comment feel sexual and I just wanted to play ping pong. Dr Vel totally ruined it for me and I decided to stop playing. If one of my friends had made that comment, it might have been funny but Dr Vel wasn't one of my friends, he was my boss and it felt wrong."*

123. Dr Kuppuswamy's evidence was that he had been playing 'doubles' ping pong, but denied saying the words alleged. He stated that Dr A and Dr B had *"degraded themselves"* by saying he acted in the way they alleged and that they were lying.

124. Given the consistency of Dr A's evidence and the pattern of behaviour it had found Dr Kuppuswamy had engaged in, the Tribunal concluded it more likely than not that he acted in the way alleged. Dr A's Medacs and police statements were consistent on this point, although as with other paragraphs of the Allegation, contained less detail than her GMC witness statement and oral evidence.

125. The Tribunal therefore found paragraph 3(g) of the Allegation proved.

Paragraph 4

4(a)

126. Dr Kuppuswamy stated that he accepted that he received a telephone call from Dr A and remembers it as there was only one such death, so it stood out, but denied stating the words alleged.

127. In her GMC witness statement, Dr A states that:

"I didn't call Dr Vel via his mobile or WhatsApp; as this was a professional call, I called him via the hospital switchboard and they put me through to him. My intention was to have a short, simple, professional discussion about a death certificate. The first time I called Dr Vel, I had a proposal as to what I thought should be put down on the death certificate as the cause of death and this was a short, straightforward call. Legally, in Wales, once the senior doctor had approved the proposed cause of death, you'd have to call the coroner's office and tell them what you were proposing. If they agreed, you could finalise the certificate but if they didn't, you'd have to adjust it and speak to the senior doctor again. This is what happened with this patient's death certificate and I had to make a second call to Dr Vel about the minor adjustment the coroner's office wanted me to make and this is when Dr Vel made the comment, 'If you want to get in touch with me, there are easier ways' and made a suggestion that I was stalking him, and I think I said something back like, 'I'm not stalking you Dr Vel, I'm calling you as it's a professional requirement to talk to you about this death certificate'. It was quite normal for this second phone call to be made and I'd never had another consultant make such a comment to me.

When making this call to Dr Vel, I was in an office with the bereavement officers and I was trying to keep things light yet professional and all I could think was that he shouldn't be saying things like that to a junior on the phone and not when we're talking about a person who has just died quickly from a horrible disease, has suffered and their family are waiting on the death certificate. This just amplified the inappropriateness of Dr Vel's comment. It made me feel gross and I just wanted the call to be over with. Dr Vel was again implying that that we had more of a friendship than we did but I had purposefully kept my distance from him since [Person J']*s party, though it may not have been obvious to him."*

128. The Tribunal accepted the evidence that by this point, Dr A had started to put her guard up and remained exclusively professional with Dr Kuppuswamy, and had deleted his personal number from her phone.

129. The Tribunal considered that calling Dr Kuppuswamy in the way that Dr A did was perfectly normal and appropriate procedure and that there was no legitimate reason for him to state the words alleged. The Tribunal considered Dr A's evidence on this to be consistent and credible and accordingly found that Dr Kuppuswamy had said *'If you want to get in touch with me, there are easier ways'*, or words to that effect.

130. The Tribunal considered that in the circumstances, this comment was inappropriate because it was overfamiliar, and it was suggestive that Dr A should have contacted Dr Kuppuswamy via his personal telephone number and/or that she had contacted him for a reason other than strictly to discuss the death certificate, as was her duty.

131. Accordingly, the Tribunal found paragraph 4(a) of the Allegation proved.

4(b)

132. Dr Kuppuswamy stated that the allegations relating to the sofa did not occur and that there were only sofas in the doctor's messes, one in the Hospital and one in the Hospital accommodation. Dr Kuppuswamy denied having ever visited the doctor's mess in the Hospital.

133. Whilst the actions alleged are not mentioned in Dr A's GMC witness statement, they are mentioned in her earlier police statement, where she states:

> *"There were also occasions when Dr Vel would come into the communal area and if I was sat on the sofa, he would sit as near to you as possible, despite there being plenty of room to sit elsewhere. He would always lean and drape his arm behind me on the sofa, I could feel his bodyweight there and I felt trapped. I would move and scoot further down the sofa, but Dr Vel would make a concerted effort to move along with you and would start asking personal questions, always turning a conversation into something personal and borderline sexual."*

134. During cross-examination, Dr A reiterated this account, stating that:

> *"Generally in my time at the hospital, there were various times when I and other people had been using the common areas, outside events that had been specifically organised, where we would just be hanging out in this common space that we shared and Dr Kuppuswamy would come and sit with us. He would sit uncomfortably close, have his arm around the back of the sofas and make you feel very much like his presence was completely around you and if you moved away, he would also move. I remember that."*

135. Although Dr A did not make reference to these events in her Medacs or GMC statements, the Tribunal considered that her evidence in the form of police statement and

oral evidence was consistent and credible. The Tribunal was also of the opinion that such behaviour matched a pattern of Dr Kuppuswamy being overfamiliar and seeking to initiate personal conversation and then physical touching.

136. Accordingly, the Tribunal found paragraph 4(b) of the Allegation proved.

4(c)

137. Dr A's evidence on this paragraph of the Allegation was compelling and consistent regarding the core aspects and her perception of events at the time, which appeared genuine and credible to the Tribunal.

138. Dr Kuppuswamy had denied that the events occurred as described, but stated that he specifically remembered taking the lift at that time with Dr A, which the Tribunal found unusual given that by his account nothing out of the ordinary happened.

139. Given the consistency and credibility of Dr A's evidence, the Tribunal determined that, on the balance of probabilities, Dr Kuppuswamy had acted in the way alleged.

140. Accordingly, the Tribunal found paragraph 4(c) of the Allegation proved.

Dr B

Paragraph 5

5(a)&(b)

141. In her GMC witness statement, Dr B states:

> *"The first time Dr Kuppuswamy made any type of contact with me was when and* [Person J] *were dancing together.* [Person J] *and I were dancing between the gazebo and door to go back inside. We both had our backs to him when we started dancing so didn't know he was there. As we were dancing and moving around, I noticed him looking and staring at me and* [Person J]*. Dr Kuppuswamy was sitting on his own with others a little distance away from him. Dr Kuppuswamy was a few metres away from us. There was music playing but I can't remember how loud it was. He then made this comment, 'You both look good sexy dancing, go on keep doing that sexy dancing for*

me'. We both heard him make this comment. He didn't shout but it was loud enough that we heard it. It made me feel quite awful."

142. In her earlier police statement, Dr B stated:

"Whilst we were dancing this Doctor shouted over at us, [Person J] *and I looked over at him and out of the blue he made the most inappropriate comment. "You both look good sexy dancing, go on keep doing that sexy dancing for me". I smiled an awkward smile and we both walked away. He was about a meter or two away from us at the time the comment was made. I remember feeling awkward and felt that I couldn't say anything to him, as he is a Senior doctor and I am just in training. I found this very sleezy, I avoided him the rest of the night, the best I could."*

143. Dr Kuppuswamy denied that the event occurred at all and stated that whilst there was music playing, nobody was dancing.

144. The Tribunal considered that whilst Dr B did not specifically mention 'staring' in her police statement, her account of the event was similar and specifically mentioned the words Dr Kuppuswamy is alleged to have said.

145. The Tribunal noted that Dr H had stated in her evidence that she did not observe the events, or anyone dancing while she was at the party.

146. However, Dr A also mentioned people dancing at the party and Dr H conceded that she did not observe Dr Kuppuswamy the entire evening.

147. Overall, the Tribunal considered that the fact that Dr B did not specifically mention 'staring' in her police statement did not undermine her account, which was largely consistent in its description of Dr Kuppuswamy's behaviour.

148. The Tribunal considered whether Dr Kuppuswamy had looked or stared at Dr B, and was mindful that 'staring' implies more than simply looking at someone or in their direction. The Tribunal concluded that, on the balance of probabilities, Dr Kuppuswamy had said words to the effect of *'You both look good dancing, go on keep doing that sexy dancing for me'* and that in this context, he had *'stared'* at Dr B while she was dancing.

149. The Tribunal considered it more likely than not that both Dr A and Dr B had separately said there was dancing at the party because this happened. There was a party with a number

of people with music so this was a likely occurrence. Dr B was consistent and credible regarding there being dancing and stood up to scrutiny about what Dr Kuppuswamy did and said whilst she was dancing.

150. Accordingly, the Tribunal found paragraphs 5(a) and (b) of the Allegation proved.

5(c)

151. In her police statement, Dr B stated that:

> *"Dr Kuppuswamy approached the table and grabbed a chair and moved his chair next to mine. I remember feeling very uncomfortable as he was sat very close to me, we were touching arms he was that close to me.*
>
> *He sat on the right-hand side of me. Before I could move, he placed his left hand on my top right thigh, very close to my private area. He gave my leg a little squeeze. I immediately stood up and walked away. He didn't say anything to me, and I didn't say anything to him. I was shocked at what he had just done. I avoided him the rest of the evening. I was most upset, but I didn't want to show this.*
>
> *…*
>
> *I did not consent to Dr Kuppuswamy touching me in any way and most certainly not on my upper thigh near my private area, this is out of order and I felt very uncomfortable and embarrassed. I know the touching was not a mistake as he did not move his hand immediately or apologise, it was most certainly intentional, leaving his hand in that area and squeezing firmly. With his inappropriate comments and his touching really made me feel sexually violated."*

152. In her GMC witness statement Dr B states that:

> *"A little later on, I was sitting at a garden table, in a circle, outside with some other junior doctors, Dr G and Dr E. Dr Kuppuswamy was sitting a little further away from us but then I noticed he pulled his chair uncomfortably close to mine. He positioned himself on the right hand side of me so that he was touching shoulders with mine. Dr Kuppuswamy then put his left hand on the top of my left thigh, right in my groin area and where my knicker line was and squeezed. It wasn't a firm squeeze but there was pressure applied as it was not just a placing of the hand.*

…

Dr Kuppuswamy's hand was there for a few seconds before I was able to react."

153. Dr Kuppuswamy denied the events occurred, and did not suggest that he had acted in any way that could be misconstrued as described by Dr B.

154. Dr B's version of events was supported by the accounts of Dr E, who stated in his police and GMC witness statements that he had seen Dr Kuppuswamy move his chair close to Dr B and put his hand on Dr B's thigh. Dr B's account was also corroborated by Dr G, who described in his police witness statement how Dr Kuppuswamy moved his chair close to Dr B to the extent that the chairs were touching, and that when Dr B tried to 'shuffle' her chair away, Dr Kuppuswamy moved his chair closer again. Dr G then described how Dr Kuppuswamy put his hand on Dr B's "*upper thigh directly next to her private area and he squeezed her thigh".*

155. Dr B also told her boyfriend, Mr D, about the events around the time that they occurred and his GMC witness statement he states that Dr B told him that Dr Kuppuswamy had *"put his hand on the inside of her leg".*

156. The Tribunal concluded that, given the multiple witnesses to the event and their consistent description, the events described by Dr B had, on the balance of probabilities, occurred.

157. The Tribunal considered the specific wording of the allegation and was satisfied that the description of the touching of 'arms' and 'shoulders' were not contradictory.

158. The Tribunal noted that there was some inconsistency in the written descriptions of whether Dr Kuppuswamy was sitting on Dr B's right or left hand side, and which leg was touched. Dr B explained this in oral evidence as an error which the Tribunal have accepted. Dr B's evidence was not undermined by this. Similarly, although the exact position of where on Dr B's leg she was touched was described in slightly differing terms, the descriptions were all consistent with Dr Kuppuswamy putting his hand on Dr B's thigh and squeezing. The Tribunal concluded that the squeezing of someone's thigh in such a manner could be reasonably described as *'near Dr B's groin area'*.

159. Dr Kuppuswamy raised at various points that Dr B XXX, had previously described herself as *"drunk"* then *"tipsy"* at the party and that Dr B had sought to minimise the impact of her alcohol intake. The Tribunal placed less weight upon the impact of alcohol on Dr B's recollection because of the corroboration of other witnesses, particularly Dr E, who described Dr Kuppuswamy's behaviour and touching of Dr B in a substantially similar manner to hers.

160. Accordingly, the Tribunal found paragraphs 5(c) of the Allegation proved in its entirety.

161. When making decisions in relation to each of the above sub-paragraphs, the Tribunal approached the evidence of Dr A and Dr B separately and concluded that there was sufficient evidence on the balance of probabilities to find each of the sub-paragraphs proved. Therefore, none of the sub-paragraphs above were approached on the basis of cross-admissibility of Dr A or Dr B's evidence.

6(a)(i)

162. The Tribunal then went on to consider whether Dr Kuppuswamy's actions as described by Dr A and found proved constituted sexual harassment as defined in Section 26 (2) of the Equality Act 2010, in that Dr Kuppuswamy engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr A.

163. The Tribunal considered that Dr Kuppuswamy's actions at paragraphs 3, 4(b)&(c) of the Allegation amounted to sexual harassment. It also considered that his actions at paragraphs 2 and 4(a), when considered in the context of the other paragraphs, also constituted sexual harassment.

164. In her GMC witness statement Dr A described how the WhatsApp messages 'Thanks [Dr A] you are a perfect sweetheart.' and '[Dr A] I be there. If you dance with me…' sent by Dr Kuppuswamy made her feel, stating:

> *"…Dr Vel said 'Dr A I be there. If you dance with me.' I felt this was a very odd comment and it made me feel very uncomfortable as it seemed clear that he wanted to dance with ME not just in general. Dr Vel was older and more senior than me. I knew that* [XXX]. *I tried to side step the comment and tried to believe he was just being friendly. I had no intention of dancing with him. It was wrong on all kinds of levels. On*

seeing this comment about dancing with me, it made me question the 'sweetheart' comment and I felt that it might have a different connotation to what I first thought."

165. In relation to paragraph 4(a), Dr A's GMC witness statement states:

"I had to make a second call to Dr Vel about the minor adjustment the coroner's office wanted me to make and this is when Dr Vel made the comment, 'If you want to get in touch with me, there are easier ways' and made a suggestion that I was stalking him, and I think I said something back like, 'I'm not stalking you Dr Vel, I'm calling you as it's a professional requirement to talk to you about this death certificate'. It was quite normal for this second phone call to be made and I'd never had another consultant make such a comment to me.

When making this call to Dr Vel, I was in an office with the bereavement officers and I was trying to keep things light yet professional and all I could think was that he shouldn't be saying things like that to a junior on the phone and not when we're talking about a person who has just died quickly from a horrible disease, has suffered and their family are waiting on the death certificate. This just amplified the inappropriateness of Dr Vel's comment. It made me feel gross and I just wanted the call to be over with. Dr Vel was again implying that that we had more of a friendship than we did but I had purposefully kept my distance from him since [Person J']*s party, though it may not have been obvious to him."*

166. The Tribunal concluded that Dr Kuppuswamy's actions were unwanted conduct of a sexual nature and had the effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr A. The Tribunal considered that Dr A's perception in this regard was reasonable under the circumstances, particularly given the repeated nature of Dr Kuppuswamy's conduct which had become a pattern of unwanted and inappropriate behaviour.

167. The sexual nature of the unwanted conduct was made out by the words used by Dr Kuppuswamy and his physical touch of Dr A.

168. Accordingly, the Tribunal found paragraph 6(a)(i) of the Allegation proved.

6(a)(ii)

169. The Tribunal considered that Dr Kuppuswamy's actions at paragraph 3(g) of the Allegation constituted sexual harassment even as an isolated incident due to the nature of his actions and words.

170. Dr B's account of Dr Kuppuswamy's actions at paragraph 5 of the Allegation make it clear that this made Dr B feel deeply uncomfortable and upset.

171. The Tribunal heard evidence that Dr B had subsequently XXX following these events. The evidence was that this decision was made for more than one reason including that Dr B had XXX.

172. In all the circumstances the Tribunal determined that Dr Kuppuswamy had engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr B.

173. The sexual nature of the unwanted conduct was made out by the words used by Dr Kuppuswamy and him touching Dr B on her thigh without legitimate reason.

174. Accordingly, the Tribunal found paragraph 6(a)(ii) of the Allegation proved

6(b)

175. The Tribunal then went on to consider whether Dr Kuppuswamy's actions were sexually motivated.

176. Dr Kuppuswamy did not suggest any alternative explanation or motive, stating that the events did not happen.

177. In respect of Dr A, Dr Kuppuswamy had made targeted comments earlier on, of a seemingly flirtatious nature. This behaviour then escalated to repeated instances of him initiating unwanted physical contact with Dr A.

178. The Tribunal considered that this behaviour was repetitive, occurring in different forms on different dates, and constituted a pattern of behaviour. It was of the opinion that

looking at these events objectively, any reasonable person could conclude that these acts collectively, or in some instances individually, suggested a sexual motive.

179. In respect of Dr B, the Tribunal considered that Dr Kuppuswamy's comment *'You both look good dancing, go on keep doing that sexy dancing for me'* and the squeezing of Dr B's thigh were overtly sexual in nature, and strongly suggestive of a sexual motivation.

180. The Tribunal concluded that Dr Kuppuswamy's actions, which it had found constituted sexual harassment, were more likely than not, also sexually motivated. The Tribunal was unable to identify any other plausible explanation for Dr Kuppuswamy's actions and considered that he had sought to initiate '*flirtatious*' interactions and then escalated to physical touching, apparently 'testing the water'.

181. A person's state of mind can only be proved by inference or deduction from the surrounding evidence as identified in the case of *Basson v General Medical Council [2018] EWHC 505 (Admin).* The pattern of behaviour exhibited by Dr Kuppuswamy escalated over time such that it was increasingly unlikely that his conduct had an alternative plausible explanation. The physical grabbing, squeezing and touching of Dr A and Dr B alongside comments such as "*cheeky girl*" and reference to "*keep doing that sexy dancing for me*" in the context of this case are consistent with the pursuit of a sexual relationship or sexual gratification.

182. The evidence of Dr A and Dr B was that they felt objectified by Dr Kuppuswamy and felt *"dirty"*. In addition to Dr Kuppuswamy physically touching both Dr A and Dr B, it was the way in which he did this which added to the sexualisation of Dr A and Dr B. The Tribunal agreed with the GMC submission that some of the comments and behaviour were unambiguously sexually motivated and that Dr Kuppuswamy treated Dr A and Dr B like sexual objects that could be used for his own sexual gratification.

183. Overall, the Tribunal determined that, on the balance of probabilities, Dr Kuppuswamy's actions in respect of both Dr A and Dr B were motivated either in the pursuit of a sexual relationship or sexual gratification.

184. Accordingly, the Tribunal found paragraph 6(b) of the Allegation proved.

6(c)

185. In considering whether Dr Kuppuswamy's actions were an abuse of his position, the Tribunal noted that he was a Consultant and therefore more senior than Dr A, who was a XXX and a junior colleague, and Dr B who was a XXX at the time.

186. During his oral evidence, Dr Kuppuswamy suggested that as he was a Locum Consultant he was not as senior or in as much as a position of authority as a non-locum Consultant would be. The Tribunal, whilst acknowledging that a locum doctor may have less responsibility or authority than a non-locum doctor, nonetheless concluded that Dr Kuppuswamy was a senior, more experienced colleague of Dr A and Dr B and in a position of relative authority. The accounts of Dr A and Dr B demonstrate that they clearly perceived Dr Kuppuswamy to be senior to them.

187. The Tribunal considered that the power differential between Dr Kuppuswamy and Dr A and Dr B meant that he was in a position of power as a senior colleague of theirs. It concluded that his sexually motivated and harassing actions, which occurred within work and work-related settings at the Hospital were an abuse of this position. Dr Kuppuswamy had breached professional boundaries, particularly in relation to his unwanted touching of both women and also in the loaded words he spoke to them both.

188. The Tribunal also considered that Dr Kuppuswamy's actions amounted to an abuse of his position as a doctor, irrespective of his seniority, and were a breach of the expectations set out within Good Medical Practice (2013 ('GMP'). The Tribunal concluded that engaging in sexually motivated behaviour constituting sexual harassment with any colleagues was an abuse of the position that a registered medical practitioner holds.

189. Accordingly, the Tribunal found paragraph 6(c) of the Allegation proved.

The Tribunal's Overall Determination on the Facts

190. The Tribunal has determined the facts as follows:

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

1. At the time of your actions as set out in paragraphs 2-5:

   a. you were working as a locum consultant at Withybush Hospital ('the Hospital'); **Admitted and found proved**

b. Dr A and Dr B were junior colleagues of yours. **Admitted and found proved**

Dr A

2. Between August 2021 and September 2021, you sent one or more inappropriate messages to Dr A, as detailed in Schedule 1. **Determined and found proved**
3. On or around 9 September 2021, whilst attending a party in the communal area of your accommodation at the Hospital, you:

a. hugged Dr A; **Determined and found proved**

b. touched Dr A's back; **Determined and found proved**

c. squeezed Dr A's waist; **Determined and found proved**

d. had a conversation with Dr A, during which you:

i. grabbed Dr A's wrist; **Determined and found proved**

ii. squeezed Dr A's wrist; **Determined and found proved**

iii. pulled Dr A towards you; **Determined and found proved**

iv. smirked at Dr A; **Determined and found proved**

v. told Dr A she was a 'bad girl' in response to her making a comment to you about smoking being bad for your health, or words to that effect; **Determined and found proved**

vi. winked at Dr A; **Determined and found proved**

e. carried out the actions described at paragraph 3.d.i-3.d.iii despite the fact that Dr A, on one or more occasion:

i. tried to pull away from you; **Determined and found proved**

ii. told you:

1. that you were hurting her; **Determined and found proved**

2. to let go of her wrist; **Determined and found proved**

f. on one or more occasion:

i. followed a group of female work colleagues (which included Dr A) when they moved to a different area of the party; **Determined and found proved**

ii. stared at the group of female work colleagues referred to in paragraph 3.f.i whilst they were:

1. dancing*;* **Determined and found proved**

2. standing in the kitchen; **Determined and found proved**

g. whilst playing ping-pong against Dr A and Dr B:

i. made a forward thrusting motion with your chest; **Determined and found proved**

ii. told them:

1. they should use their chests as paddles; **Determined and found proved**

2. their chests, or being well-endowed in that area, was an advantage in the game; **Determined and found proved**

or words to that effect. **Determined and found proved**

4. Between August 2021 and October 2021:

a. you received one or more telephone calls from Dr A to discuss a death certificate during which you made an inappropriate comment to Dr A in that you said 'If you want to get in touch with me, there are easier ways', or words to that effect; **Determined and found proved**

b. on one or more occasion you:

i. sat very close to Dr A on the sofa*;* **Determined and found proved**

ii. leant into Dr A; **Determined and found proved**

iii. draped your arm behind Dr A on the sofa; **Determined and found proved**

iv. moved along the sofa when Dr A tried to move further down the sofa; **Determined and found proved**

c. whilst walking to the lift, on or around 13 September 2021, you:

i. grabbed Dr A's arm; **Determined and found proved**

ii. squeezed Dr A's arm; **Determined and found proved**

iii. smirked at Dr A; **Determined and found proved**

iv. leaned in and whispered, 'Cheeky girl', or words to that effect; **Determined and found proved**

v. carried out the actions described at paragraphs 4.c.i-4.c.ii despite Dr A telling you that you were hurting her. **Determined and found proved**

Dr B

5. On 9 September 2021, whilst attending the party referred to at paragraph 3 above:

a. you stared at Dr B whilst she was dancing; **Determined and found proved**

b. you told Dr B 'You both look good dancing, go on keep doing that sexy dancing for me', or words to that effect; **Determined and found proved**

c. whilst sitting at a table, you:

i. pulled your chair close to Dr B; **Determined and found proved**

ii. positioned yourself to the side of Dr B so that you were touching shoulders with her; **Determined and found proved**

iii. put your hand on top of Dr B's thigh; **Determined and found proved**

iv. squeezed near Dr B's groin area. **Determined and found proved**

6. Your actions as set out at paragraphs 2-5:

a. constituted sexual harassment as defined in Section 26 (2) of the Equality Act 2010, in that you engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for:

i. Dr A (in respect of paragraphs 2-4); Determined and found proved

ii. Dr B (in respect of paragraph 3g and paragraph 5); Determined and found proved

b. were sexually motivated; Determined and found proved

c. were an abuse of your position. Determined and found proved

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

Determination on Impairment - 29/01/2026

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

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal refused Dr Kuppuswamy's application for a 'temporary stay of the publication of the Tribunal's findings and determination'. The Tribunal's full decision on the application is included at Annex R.

The Evidence

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

4. The Tribunal also received in support of Dr Kuppuswamy, documentary evidence (some of which came from his 2024 appraisal), patient and colleague feedback, details of CPD he had undertaken and a character reference from a colleague.

5. Dr Kuppuswamy also gave further oral evidence to the Tribunal at this stage of proceedings.

Submissions

On behalf of the GMC

6. On behalf of the GMC, Mr Fish submitted that Dr Kuppuswamy's actions, which included inappropriate, sexually motivated behaviour towards two junior female colleagues and an abuse of his professional position, fell so far below the standard of behaviour expected of a doctor as to amount to serious professional misconduct, referring the Tribunal to relevant paragraphs of *Good Medical Practice (2013)* ('GMP').

7. Mr Fish submitted that Dr Kuppaswamy's fitness to practise is currently impaired. He submitted that whilst it was clear that Dr Kuppuswamy had done some work around respecting professional boundaries, there was insufficient evidence of insight or remediation of the concerns that have been exposed during the course of this hearing. He submitted that the findings are so serious that a finding of impairment was necessary to maintain public confidence in the medical profession and maintain proper professional standards.

8. Mr Fish submitted that Dr Kuppuswamy's name had been erased from the Medical register in January 2012 after findings of dishonesty were made against him and that in November 2020 he successfully applied to be restored to the Medical Register. Mr Fish submitted that it was a matter for the Tribunal as to what weight it considers appropriate to attach to those previous matters.

Dr Kuppuswamy

9. Dr Kuppuswamy provided oral submissions to the Tribunal, which he supplemented with further written submissions.

10. Dr Kuppuswamy submitted that he did not accept the Tribunal's factual findings as *"safe"* and that they were reached following proceedings which he contends were unlawful, including defects at the investigation and gateway stages and exclusion from effective participation during live evidence. He submitted that he did not accept that impairment could be properly assessed where the findings themselves are *"unsafe"*.

11. Dr Kuppuswamy submitted that an important factor was that none of the alleged complaints related to patient safety or clinical care and that the previous fitness to practise

findings against him in 2012 were historical, had no relevance to the current issue and had been safely dealt with by the 2020 Tribunal who restored his registration.

12. Dr Kuppuswamy submitted that the documentary evidence that he had provided demonstrated the courses he had attended in relation to this issue and that the patient and colleague testimonials and feedback provided demonstrated evidence of his all-round positive clinical performance in the clinical and professional settings with patients and colleagues, and his entire practice, which is the subject of concern. He submitted that this constituted clear evidence of relevant insight and remediation.

13. Dr Kuppuswamy submitted that his fitness to practise is not currently impaired, as evidenced by those documents, that there were no patient safety concerns and that public confidence would not be undermined were a finding of impairment not made, given the insight and remediation he had undertaken.

14. Dr Kuppuswamy submitted that the Tribunal should consider the applicable case law, which sets out that:

- Insight does not require admission of intent or agreement with findings; it requires understanding of risk, impact, and the need for professional boundaries (*Yeong v General Medical Council [2009] EWHC 1923 (Admin)*).
- Impairment is forward-looking; the question is whether the practitioner's fitness to practise is currently impaired, not whether misconduct occurred in the past (*Cohen v General Medical Council [2008] EWHC 581 (Admin)*).
- Where misconduct is unlikely to be repeated and meaningful remediation has occurred, a finding of current impairment may not be necessary (*Zygmunt v General Medical Council [2008] EWHC 2643 (Admin)*).
- Even in boundary or sexual misconduct cases, remediation, supervision, and demonstrable behavioural change are highly relevant to current impairment (*Kimmance v General Medical Council [2016] EWHC 1808 (Admin)*).

The Relevant Legal Principles

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

16. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious and then whether the finding of that misconduct which was serious could lead to a finding of impairment.

17. The Tribunal must determine whether Dr Kuppuswamy's fitness to practise is impaired today, taking into account Dr Kuppuswamy's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

18. The LQC reminded the Tribunal that whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

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

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

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

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

The Tribunal's Determination on Impairment

Misconduct

19. In determining whether Dr Kuppuswamy's actions amounted to serious misconduct, the Tribunal considered its finding that Dr Kuppuswamy had abused his professional position and sexually harassed two junior female colleagues, one of whom was XXX, and that his behaviour, which involved multiple instances of unwanted physical touching, was sexually motivated.

20. The Tribunal concluded that Dr Kuppuswamy's actions had breached paragraphs 35, 36 and 37, which fall under the heading *Working collaboratively with colleagues* and state:

> ***35*** *You must work collaboratively with colleagues, respecting their skills and contributions.*
>
> ***36*** *You must treat colleagues fairly and with respect.*
>
> ***37*** *You must be aware of how your behaviour may influence others within and outside the team.*

21. The Tribunal considered that Dr Kuppuswamy had failed to act with integrity and so had also breached paragraph 1 of GMP, which states:

> ***1*** *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> ***65*** *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*

22. The Tribunal was satisfied that Dr Kuppuswamy's behaviour represented a significant breach of professional boundaries and had clearly fallen seriously below the standards expected. The public ought to be able to trust doctors to conduct themselves with integrity, including working, and otherwise interacting appropriately with junior colleagues and medical students.

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

Impairment

24. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Kuppuswamy's fitness to practise is currently impaired.

25. The Tribunal was of the opinion that Dr Kuppuswamy's misconduct was not easily remediable. His misconduct represented a pattern of sexually motivated behaviour over a period of time with multiple colleagues and multiple instances of unwanted physical touching. The Tribunal considered that this reflected an attitudinal issue in Dr Kuppuswamy's behaviour towards junior female colleagues.

26. The Tribunal was provided documentary evidence from Dr Kuppuswamy, which included patient and colleague feedback and details of CPD he had undertaken. The Tribunal acknowledged that the feedback provided on Dr Kuppuswamy's behalf was broadly very positive and demonstrated that he is an otherwise good doctor who is clinically competent and respected by his colleagues and patients.

27. However, given the nature of the case and the serious findings against him, testimonials regarding his clinical practice and unrelated CPD were not sufficient to demonstrate insight or remediation in respect of his sexually motivated misconduct.

28. The Tribunal was also provided a character reference for Dr Kuppuswamy from Dr L, Consultant Interventional Cardiologist at Kingston Hospital NHS Foundation Trust, dated 15 August 2024. Whilst this did state that Dr L was aware that Dr Kuppuswamy was currently subject to a GMC investigation, it did not elaborate further on the findings against Dr Kuppuswamy and did not assist the Tribunal in considering the current issue of impairment.

29. The Tribunal also received an apology letter written by Dr Kuppuswamy following the police investigation into his alleged behaviour, dated 15 February 2022, which Dr Kuppuswamy submitted the Tribunal should consider as evidence of insight. However, this letter, which Dr Kuppuswamy had provided as part of '*restorative justice*' did not accept any fault but rather apologised if anyone had *"misinterpreted"* his actions or intentions as inappropriate or overfamiliar. When asked about this by Mr Fish during his oral evidence, Dr Kuppuswamy stated that he was genuinely sorry as set out in the letter, that this was a non-admission apology and that the focus was on perception and that there was distress *"from their end"*. He stated that the apology was to address that and that it is in no way an admission of any wrongdoing.

30. When giving oral evidence about the apology, Dr Kuppuswamy stated that the learning he received from the professional boundary courses included that the risk to others is not about the intent but is about perception and that an apology is an appropriate response born out of that insight to alleviate that distress.

31. The Tribunal weighed up Dr Kuppuswamy's evidence on this point that he maintains Dr A and Dr B have created false memories in their minds. It has never been Dr Kuppuswamy's case that *"innocent"* touching of either Dr A or Dr B has been misconstrued, he maintains they have lied. It is not clear what Dr Kuppuswamy is sorry for as he does not accept that he is responsible for how Dr A and/or Dr B felt. Dr Kuppuswamy's evidence was that he was asked to apologise in the form of a letter and without an admission of guilt as part of legal advice he received. The Tribunal concluded that Dr Kuppuswamy's apology letter was sent after legal advice and not because Dr Kuppuswamy showed genuine remorse. The Tribunal was of the opinion that the apology letter did not constitute evidence of meaningful insight and did not attribute it any weight when considering the matters of remediation and insight.

32. The Tribunal noted that Dr Kuppuswamy had provided certificates of completion for a professional boundaries course on 4 January 2023 and also a two-hour professional boundaries course on 1 April 2023. During his oral evidence, Dr Kuppuswamy confirmed that these were online courses which presented a mixture of lectures, presentations and slides followed by an exam at the end. Dr Kuppuswamy's evidence was that he had provided some written reflections as part of the courses, but that he had not been able to locate these to provide to the Tribunal.

33. When asked about what he had learned from these courses and how he had applied this, Dr Kuppuswamy told the Tribunal that it was important to avoid any ambiguous situations, that clear role definition is required and that safeguarding needs to be put in place. He submitted that he had made chaperoning consistent and mandatory in all his examinations and implemented supervision through his clinical lead and other senior colleagues by disclosing the ongoing investigations.

34. Dr Kuppuswamy stated that he has avoided any ambiguous situations completely and not attended any social events that involved any junior doctors and avoided any informal interactions whatsoever, although he has socialised with his consultant colleagues on a regular basis.

35. As an example of applied insight, Dr Kuppuswamy stated that if he received any text messages unrelated to a patient concern for example relating to reference requests or anything outside work time he refrained from answering those messages at all. He also stated that when there was a situation when he had to be one-to-one with a junior colleague or a colleague of the opposite gender he deliberately tried to avoid that, in one case inviting a senior nurse to attend a discussion he was having with a junior colleague.

36. Dr Kuppuswamy stated that due to his previous experience, the safeguarding he has applied focuses on prevention and avoiding risk rather than potentially giving rise to ambiguous situations and misunderstandings where similar allegations could arise.

37. In his submissions Dr Kuppuswamy stated that he recognised the power imbalance inherent in clinical settings. When Mr Fish asked him how this correlated to his earlier refusal, at the facts stage, to accept the inherent power imbalance between himself and Dr A and Dr B, Dr Kuppuswamy reiterated his position that there is a distinction between locum consultants and substantive consultants, and the power and influence that they have over junior colleagues. He also stated that such a power balance did not arise between him and his consultant colleagues.

38. In considering the evidence of insight, the Tribunal was concerned that Dr Kuppuswamy's understanding and application of what he had learned appeared to be largely defensive. Whilst it may be understandable that he would wish to avoid situations that could give rise to allegations against him, the Tribunal was not satisfied that this reflected meaningful insight into the concerns identified or appropriate remediation. As an example, avoiding dealing with reference requests from colleagues or avoiding one-on-one interactions with junior or female colleagues did not demonstrate clear insight and embedded remediation.

39. Dr Kuppuswamy's submissions and evidence did not adequately demonstrate that he had grasped key concerns arising from this case. For example, Dr Kuppuswamy described how he would avoid being physically alone with junior or female colleagues. Dr Kuppuswamy has not addressed working on his own behaviour and attitudes to avoid any such inappropriate interactions with colleagues. The Tribunal had concerns about how Dr Kuppuswamy would behave in or manage such situations to prevent any repetition.

40. The Tribunal was not satisfied that the evidence provided by Dr Kuppuswamy demonstrated that he understands the importance and application of appropriate, professional interactions with colleagues and maintaining boundaries, and did not accept that cutting off communication or avoiding contact with certain colleagues amounted to either meaningful insight or remediation.

41. Dr Kuppuswamy made no mention of the messages, which he accepted sending and the Tribunal found inappropriate, or how messages such as *'Thanks [Dr A] you are a perfect*

sweetheart' or *'[Dr A] I be there. If you dance with me…'* could be perceived or give rise to further issues.

42. The Tribunal considered that Dr Kuppuswamy refused to accept the factual findings made against him, which he is entitled to do. In addition, Dr Kuppuswamy has not demonstrated that he understands the seriousness of these types of findings or the impact on complainants in cases such as these. The Tribunal noted that it is entirely possible for registrants to strongly deny an allegation but still be able to demonstrate an appreciation of the seriousness of the live issues. Dr Kuppuswamy has demonstrated extremely limited insight into this case, outside of the impact on himself. Dr Kuppuswamy's appreciation of what has happened Dr A and B remains poor.

43. The Tribunal was concerned that in the circumstances of this case, Dr Kuppuswamy submitted that *"remediation here is exceptionally strong, both in scope and duration"*. This actually indicates a real lack of insight by Dr Kuppuswamy into the seriousness of the Allegation, now found proved.

44. In light of the limited evidence of meaningful insight and remediation, the Tribunal concluded that Dr Kuppuswamy had only developed very limited insight. Whilst these proceedings do appear to have had an impact on Dr Kuppuswamy and he is taking steps to avoid being alone with colleagues which may have reduced the risk of repetition somewhat, the Tribunal determined that a significant risk of repetition remained.

45. The Tribunal was informed that Dr Kuppuswamy's name had been erased from the Medical register in January 2012 after findings of dishonesty were made against him. In summary, he provided misleading information about his training and qualifications. However, the Tribunal had been provided with very few details of this case and considered that as it referred to a different situation, now of some age and was unrelated to the issues in this case, it did not assist with the question of current impairment. The Tribunal therefore focused on the details and evidence of the current case in reaching its determination on impairment and did not take into account the previous findings in making its determination.

46. The Tribunal went on to consider the test set out in *Grant*, above. In doing so it noted that there was no evidence of patient harm or clinical concerns, and the evidence before it was that Dr Kuppuswamy was, on a directly clinical basis, a good doctor.

47. The Tribunal concluded that Dr Kuppuswamy's actions had in the past brought the medical profession into disrepute and had breached one of the fundamental tenets of the

medical profession. In light of its finding that there remained a risk of repetition and that Dr Kuppuswamy had failed to act with integrity, it also concluded that Dr Kuppuswamy was liable to bring the medical profession into disrepute or breach one of the fundamental tenets of the medical profession in the future.

48. Whilst the Tribunal accepted that Dr Kuppuswamy had in the past acted dishonestly, it was not in relation to the matters before this Tribunal. The Tribunal restricted its considerations at this impairment stage to the features of this case.

49. The Tribunal determined that a finding of impairment was necessary to uphold the second and third limbs of the overarching objective, namely to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession. The Tribunal considered these limbs would be undermined were a finding of impairment not made in this case.

50. The Tribunal therefore determined that Dr Kuppuswamy's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 30/01/2026

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

The Evidence

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

Submissions

On behalf of the GMC

3. On behalf of the GMC, Mr Fish submitted that the appropriate sanction in this case was that of erasure.

4. Mr Fish submitted that in terms of mitigating factors, the Tribunal had received some positive testimonials from individuals who have worked with Dr Kuppuswamy, whose clinical skills have not been criticised at any stage during the course of this hearing. He submitted that whilst it is clear that there are many who consider Dr Kuppuswamy to have excellent clinical skills, it was a matter for the Tribunal to assess how relevant that was in determining what sanction to impose.

5. Mr Fish submitted that there were a number of aggravating factors in this case. He submitted that a lack of insight is still a significant concern, that Dr Kuppuswamy has a previous finding of impairment, that his actions involved the abuse of his professional position and predatory behaviour, and that sexual misconduct seriously undermines public trust in the profession.

6. Mr Fish submitted that there were a catalogue of concerns in this case and that the relevant paragraphs of the Sanctions Guidance (2024) ("the SG") point very clearly in the direction of erasure being the appropriate sanction.

7. Mr Fish submitted that whilst the Tribunal had the power to take no action, that would be a wholly exceptional outcome which could not be justified in this case. He submitted that the findings were too serious for either conditions or a period of suspension to be appropriate.

8. Mr Fish submitted that there has been a serious departure from GMP identified by the Tribunal, and that Dr Kuppuswamy failed to act with integrity and behave in a way that justifies public trust in the profession, which in the GMC's opinion was fundamentally incompatible with continued registration.

9. Mr Fish submitted that whilst some material had been provided to the Tribunal at the impairment stage by Dr Kuppuswamy, this did not in any way demonstrate any real meaningful insight, and therefore this was a case where the Tribunal could and should find that there had been a persistent lack of insight.

10. Mr Fish submitted that for all of those reasons, regrettably, the appropriate sanction was that of erasure.

Dr Kuppuswamy

11. Dr Kuppuswamy submitted that he maintained his position that the findings and impairment decisions were unsafe and subject to appeal.

12. Dr Kuppuswamy asked the Tribunal to consider sanction proportionately in light of its own findings that he was a safe clinician, and that there were no safety concerns or dishonesty issues. He submitted that he had demonstrated insight, reflection and remediation as evidenced by the documents submitted at the impairment stage, and so there was no ongoing clinical risk to patients or the public.

The Tribunal's Determination on Sanction

13. The Tribunal's decision as to the appropriate sanction to impose on Dr Kuppuswamy's registration, if any, was a matter for the Tribunal exercising its independent judgment. In reaching its decision, the Tribunal took account of the SG and the overarching objective, namely to protect the health, safety, and wellbeing of the public, maintain public confidence in the profession, and promote and maintain proper professional standards and conduct for the members of the profession.

14. In making its decision, the Tribunal had regard to the principle of proportionality, and it weighed Dr Kuppuswamy's interests with those of the public. Throughout its deliberations the Tribunal bore in mind that the purpose of sanctions is not to punish doctors although they may have a punitive effect.

15. The Tribunal has also borne in mind that in deciding what sanction, if any, to impose, it should consider all the sanctions available, starting with the least restrictive and then consider each sanction in ascending order.

Aggravating & Mitigating Factors

16. In reaching its decision, the Tribunal first considered the aggravating and mitigating factors present in this case.

17. It considered the following features to be aggravating factors.

18. Dr Kuppuswamy was previously erased from the Medical register in January 2012 after findings of dishonesty were made against him, before having his name restored to the

Medical Register in November 2020. Upon restoration, within a short period of time, Dr Kuppuswamy engaged in a course of sexual harassment and sexually motivated misconduct with two junior female colleagues. The Tribunal was of the opinion that in the circumstances Dr Kuppuswamy should have been acutely aware of the importance of adhering to expected standards and professional obligations, and his responsibility to uphold those standards. The Tribunal considered that this demonstrated a wider attitudinal issue where Dr Kuppuswamy repeatedly showed a disregard for the principles set out in GMP. In reaching this conclusion, the Tribunal bore in mind paragraph 54 of the SG, which states:

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

19. The Tribunal also considered that paragraphs 55(b), (d)(ii), (e) and 136 of the SG were applicable in this case, which state:

> ***55*** *Aggravating factors that are likely to lead the tribunal to consider taking more serious action include:*
>
> *…*
>
> ***b*** *a failure to work collaboratively with colleagues*
>
> *…*
>
> ***d*** *abuse of professional position , particularly where this involves:*
>
> *…*
>
> ***ii*** *predatory behaviour*
>
> ***e*** *sexual misconduct*
>
> ***136*** *Doctors are expected to work collaboratively with colleagues to maintain or improve patient care. These duties are set out in paragraphs 48–51 of Good medical practice.*

20. Dr Kuppuswamy clearly demonstrated a failure to work collaboratively with colleagues. The Tribunal previously found that Dr Kuppuswamy abused his position, and was of the opinion that his actions towards Dr A and Dr B constituted predatory behaviour. Dr Kuppuswamy demonstrated a repetitive and consistent course of behaviour over a period of time targeted at two junior female colleagues, grabbing and holding Dr A's wrist or arm on multiple occasions and touching and squeezing Dr B's thigh.

21. In terms of mitigating factors, the Tribunal considered the evidence that Dr Kuppuswamy was an otherwise competent and respected clinician, but attributed this little weight given that its findings in relation to the facts and impairment stages did not relate to his clinical practice or skills. No other mitigating factors were present.

No action

22. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to take no action.

23. The Tribunal considered that there were no exceptional circumstances in this case which could justify it taking no action.

24. Given the serious findings against Dr Kuppuswamy, the Tribunal determined that to take no action would be neither appropriate nor proportionate given its earlier findings and would fail to uphold the statutory overarching objective.

Conditions

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

26. In reaching its decision, the Tribunal bore in mind paragraphs 82 and 84(a) and (b) of the SG which state:

> ***82*** *Conditions are likely to be workable where:*
>
> > ***a*** *the doctor has insight*

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.

…

84 Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:

a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage

b identifiable areas of their practice are in need of assessment or retraining

…

27. The Tribunal concluded that conditions would not be appropriate or proportionate given the nature of its findings. It noted that Dr Kuppuswamy's misconduct occurred both inside of his clinical practice (e.g. in the hospital) and in some instances outside the working environment, and so it would not be possible to formulate workable conditions to address the attitudinal concerns identified.

28. The Tribunal previously determined that Dr Kuppuswamy's sexual misconduct, by its nature, would be difficult to remediate and found that Dr Kuppuswamy lacked meaningful insight and a significant risk of repetition remained. The Tribunal considered that Dr Kuppuswamy had failed to demonstrate the necessary insight or remediation in the period since the events, and in all of the circumstances including Dr Kuppuswamy's attitudinal issues, the development of meaningful and embedded insight and remediation were considered unlikely to be successful.

29. Dr Kuppuswamy's self-assessment of the level of his insight and remediation betrays his appreciation of the seriousness of these matters and the way the public and profession are likely to view the facts, now found proved. He has stated:

> "*Dr Kuppuswamy has engaged in extensive, sustained, and proportionate remediation*"
>
> and
>
> *"remediation here is exceptionally strong, both in scope and duration" and*
>
> *15. The GMC may argue that sexual misconduct findings are inherently incompatible with public confidence. That submission must be treated with caution.*
>
> *16. Public confidence is not served by:*
>
> - *ignoring overwhelming evidence of remediation;"*

30. The Tribunal have found Dr Kuppuswamy to have limited evidence of meaningful insight and remediation. There is no proper evidential basis on which to suggest Dr Kuppuswamy would be willing and able to address his attitudinal issues. The Tribunal considered that his actions and comments towards Dr A and Dr B demonstrated embedded behaviours which manifested as sexually motivated conduct towards young female colleagues. Dr Kuppuswamy was unwilling to recognise the impact on Dr A and Dr B and to demonstrate meaningful insight that his own behaviours needed to change. Dr Kuppuswamy's response was to avoid situations that placed him at risk as opposed to demonstrating an understanding of the serious consequences for others of the behaviour found proved by the Tribunal.

31. As an example, paragraph 6 of the Allegation has been found proved in that Dr Kuppuswamy's behaviour constituted sexual harassment in that he engaged in unwanted conduct of a sexual nature which had the purpose or effect of violating the dignity of, or creating an intimidating, hostile, degrading, humiliating or offensive environment for Dr A and Dr B. Even on an objective basis, Dr Kuppuswamy has failed to evidence an understanding of the impact upon public confidence and promotion and maintenance of proper professional standards.

32. Further, given the serious nature of its findings, a period of conditional registration would fail to uphold the second and third limbs of the overarching objective, namely to maintain public confidence in the profession, and promote and maintain proper professional standards and conduct for the members of the profession.

Suspension

33. The Tribunal then went on to consider whether to impose a period of suspension. In doing so it considered the following paragraphs of the SG.

> ***93*** *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

34. The Tribunal concluded that paragraph 93 of the SG was not applicable in this case given there had been no acknowledgement of fault by Dr Kuppuswamy, and its finding that there remained a risk of repetition and that Dr Kuppuswamy had not provided meaningful evidence of insight or remediation.

35. The Tribunal also considered paragraphs 97(a), (e) and (g) of the SG, which states:

> ***97*** *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> > ***a*** *A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*
> >
> > *…*
> >
> > ***e*** *No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*
> >
> > ***…***

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

36. The Tribunal also concluded that paragraphs 97(a), (e) and (g) indicated that suspension would not be the appropriate or proportionate sanction in this case.

37. As set out above, the Tribunal determined that there was evidence that Dr Kuppuswamy lacked insight and which demonstrated remediation was unlikely to be successful.

38. The Tribunal also noted that Dr Kuppuswamy had previously had his name erased from the medical register for dishonesty, and only a very short period after his restoration engaged in the misconduct before the Tribunal, which it took into account when assessing the likelihood of successful remediation as low.

39. Owing to the serious and persistent nature of the misconduct found, which constituted sexual harassment of multiple colleagues, the Tribunal also concluded that this behaviour was inconsistent with continued registration.

40. The Tribunal also took into account paragraphs 138(b), 149 and 150 of the SG, which state:

138 More serious outcomes are likely to be appropriate if there are serious findings that involve:

…

b sexual harassment

149 This encompasses a wide range of conduct from criminal convictions for sexual assault and sexual abuse of children (including child sex abuse materials) to sexual misconduct with patients, colleagues, patients' relatives or others.

150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.

41. The Tribunal determined that, in light of its earlier findings, the aggravating factors in this case and the relevant paragraphs of the SG, suspension would not be appropriate or proportionate, and would fail to uphold the overarching objective.

Erasure

42. The Tribunal then went on to consider whether erasure would be the appropriate and proportionate sanction in the circumstances of this case. In doing so it bore in mind paragraphs 109(a), (b), (c), (d) and (j) of the SG, as set out below.

> ***109*** *Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*
>
> > ***a*** *A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.*
> >
> > ***b*** *A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.*
> >
> > ***c*** *Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients.*
> >
> > ***d*** *Abuse of position/trust (see Good medical practice, paragraph 81: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
> >
> > *…*
> >
> > ***j*** *Persistent lack of insight into the seriousness of their actions or the consequences.*

43. The Tribunal considered that the above paragraphs of the SG were applicable in this case. In respect of paragraph 109(c), the Tribunal heard evidence from both Dr A and Dr B about the effect Dr Kuppuswamy's behaviour had on them, whereby he created a hostile and sexualised environment which contributed to Dr B, who was XXX, leaving the profession for a period of time.

44. The Tribunal also reiterated its position set out at the impairment stage that Dr Kuppuswamy could have demonstrated an understanding of the findings and concerns raised while maintaining his denial of the allegations. Dr Kuppuswamy could have provided evidence of insight into the consequences and impact of the sexual misconduct found, but only described his understanding and response in a defensive and avoidant manner.

45. The Tribunal balanced proportionality in reaching its determination. There is a public interest in retaining good doctors and Dr Kuppuswamy's clinical practice was not under criticism. However being a good doctor includes matters not restricted to clinical practice alone. Dr Kuppuswamy has now twice been before his regulator for serious breaches of integrity and seriously departing from GMP. Dishonesty, sexual misconduct, sexual harassment and abuse of position are serious issues. They are separate issues from clinical acumen. Dr Kuppuswamy's attitude and inability to uphold basic standards and his lack of integrity were such that proportionality firmly falls towards his name being erased from the medical register in order to uphold the Overarching Objective, particularly given the identified risk of repetition.

46. The Tribunal was mindful of the negative signal it would be sending to the public were Dr Kuppuswamy allowed to remain on the Medical Register especially due to the extremely low level of insight Dr Kuppuswamy has shown. The public are entitled to expect better from doctors. Other medical professionals are entitled to expect more of their colleagues.

47. The Tribunal concluded that given the seriousness of its findings and in light of the SG, the sanction of erasure was appropriate and proportionate in this case. No other sanction would be sufficient to meet the Overarching Objective. The Tribunal was satisfied that any lesser sanction would fail to maintain public confidence in the profession, and promote and maintain proper professional standards and conduct for the members of the profession.

48. Accordingly, the Tribunal determined that Dr Kuppuswamy's name be erased from the Medical register.

Determination on Immediate Order - 30/01/2026

1. Having determined that Dr Kuppuswamy's name be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Kuppuswamy's registration should be subject to an immediate order.

Submissions

On behalf of the GMC

2. On behalf of the GMC, Mr Fish submitted that there should be an immediate order of suspension in this case on the grounds of the public interest.

Dr Kuppuswamy

3. At the impairment stage when making an application for a temporary stay of the publication of the Tribunal's findings and determination Dr Kuppuswamy also submitted at that stage that he was seeking a temporary stay of the operation of any sanction imposed by the Tribunal pending the determination of an appeal under section 40 of the Medical Act 1983.

4. He submitted that his submissions at that time should be considered by the Tribunal when determining whether to impose an immediate order. In that application Dr Kuppuswamy submitted that the sanction will cause immediate, irreversible professional and reputational harm, which cannot be undone even if the appeal succeeds.

The Tribunal's Determination

5. The Tribunal has taken account of the relevant paragraphs of the SG, in particular paragraphs 172, 173 and 178 as set out below:

> *172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*
>
> *173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where*

immediate action must be taken to protect public confidence in the medical profession.

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.

6. In reaching its determination, the Tribunal considered the submissions of both parties and the relevant paragraphs of the SG.

7. The Tribunal concluded that it would be inappropriate not to impose an immediate order in this case, given its finding of multiple counts of sexual harassment. The Tribunal found that the misconduct in this case was so serious that the only appropriate sanction was that of erasure, and that a risk of repetition remained.

8. The Tribunal determined that public confidence in the profession would be undermined and that it would be failing to uphold the statutory overarching objective if an immediate order were not imposed in this case and Dr Kuppuswamy were allowed to practise unrestricted for the duration of any appeal.

9. Dr Kuppuswamy made no submissions that he needed time to make clinical arrangements and the Tribunal received no evidence that he was currently in clinical practice.

10. Accordingly, the Tribunal determined that an immediate order of suspension was required in the public interest.

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

12. There was no interim order to revoke.

13. That concludes this case.

ANNEX A – 04/09/2025

Application on Abuse of Process

Background

1. On 1 September 2025, a Medical Practitioners Tribunal ('MPT') hearing was listed to commence to consider the case of Dr Kuppuswamy's fitness to practise.

2. At the outset of the hearing, Dr Kuppuswamy made a preliminary application pursuant to Rule 17(2)(a) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules') for an indefinite stay of proceedings on the grounds of abuse of process.

3. The Allegation made against Dr Kuppuswamy is set out as follows: It is alleged that between August and October 2021, Dr Kuppuswamy behaved inappropriately towards Dr A and Dr B. It is alleged that Dr Kuppuswamy's behaviour constituted sexual harassment, was sexually motivated and an abuse of his position.

Evidence

4. In considering the abuse of process argument, the Tribunal had regard to the background and chronology of the matters in this case. It had regard to the following evidence which included but was not limited to:

- Email referral to the GMC, dated October 2021 and May 2022;
- Pembrokeshire social services professional strategy meetings, dated 2021-2022;
- Crown Prosecution Service (CPS) rationale, dated 10 June 2022;
- Public Interest Concerns (PIC) review meeting notes, dated 2022/2024;
- Case Examiners decision, 3 December 2024;
- Written arguments from Dr Kuppuswamy and the GMC, undated;
- List of authorities provided by both Dr Kuppuswamy and the GMC.

Submissions

5. The following is a non-exhaustive summary of submissions made during this application.

Dr Kuppuswamy's submissions

6. Dr Kuppuswamy applied to the Tribunal for an indefinite stay of the proceedings on the grounds of an abuse of process. In the alternative, Dr Kuppuswamy sought to have a fresh and fair investigation ordered by the Tribunal. His application was based on a fair trial being impossible and that proceedings would offend the Tribunal's sense of justice and propriety, as outlined below.

Bad faith/whistleblowing

7. Dr Kuppuswamy submitted that the allegations arose in bad faith as retaliation for his whistleblowing on patient safety concerns. He submitted that the alleged victims, who were part of a WhatsApp smear campaign, colluded to fabricate allegations against him. These alleged victims were coached, their statements were written and influenced by those involved with the whistleblowing complaint, severely prejudicing his case.

Bias

8. Dr Kuppuswamy submitted that his case was tainted by bias, due to Dr C's involvement in multiple conflicting roles, including being the educational supervisor to the doctor who was the subject of his patient safety concerns, and also the investigator of the whistleblowing concerns and of the sexual misconduct allegations against him. He also submitted that Dr C liaised with members of the WhatsApp chat from which alleged victims were drawn and was the drafter of at least one of the alleged victim's statements. He submitted that this combination of roles represents a clear and serious conflict of interest, undermining any claim of impartiality which compromises the integrity of the proceedings and justifies a permanent stay.

Failure to identify Dr Kuppuswamy as the whistleblower in the GMC referral form/PIC process

9. Dr Kuppuswamy submitted that the original GMC referral form knowingly falsified that he had not raised any patient safety concerns. This was explained as an error, in an email from a legal representative from Medacs Healthcare PLC, dated January 2023. Dr Kuppuswamy described this not as an error but as misrepresentation and this prevented the activation of the PIC process, a framework designed to protect whistleblowers, for over 13 months. He argued this delay was not an administrative oversight, but a deliberate act of dishonesty designed to suppress whistleblowing protections and shift the narrative against him. He submitted that multiple versions of the referral form were created—including one

with the "patient safety concerns" section falsely marked "NO" and another where the same section was left "BLANK"—which he argued were fabricated to retrospectively justify the omission, and that no lawful explanation had been offered for the substitution of these documents.

10. Dr Kuppuswamy submitted that the PIC group, when finally made aware of his disclosures, acknowledged the whistleblowing concerns and recommended that the Case Examiner (CE) consider them. However, he submitted the CE was biased against him, they excluded the whistleblowing element from the case altogether, in contradiction to the PIC review group's recommendations, further undermining the fairness of the process. Dr Kuppuswamy submitted that the CE's decisions were not balanced or evidence-based, further undermining the fairness of the proceedings and justifying a permanent stay. He submitted the CE reached an unreasonable and perverse outcome of referring to the MPTS instead of closing the case. Therefore, the only principled and just outcome is for the Tribunal to grant a permanent stay of proceedings.

Decisions of police/ CPS/ Pembrokeshire Social Services

11. Dr Kuppuswamy submitted that the allegations against him have already been investigated and dismissed by two independent government bodies – the police/CPS and Pembrokeshire Social Services – which concluded that the allegations were unsubstantiated. He submitted that the GMC ignored these independent findings without justification, instead relying on flawed internal procedures. He argued that this raises serious concerns, especially since Social Services apply the same evidentiary threshold as the GMC and still found no wrongdoing. He questioned why, if the allegations were truly so serious, they failed in both criminal and civil forums but continue to be pursued by the GMC. He suggested this may be due not to evidentiary standards, but to misconduct and bias within the GMC's investigation. He concluded that the allegations lack substance and credibility, and that continuing the proceedings in light of two prior dismissals by independent authorities is not only unjustified but amounts to a vexatious pursuit, warranting a permanent stay.

Delay

12. Dr Kuppuswamy submitted that the GMC's investigation has been unreasonably and unconscionably delayed for over three years, amounting to an abuse of process under common law and Article 6(1) of the European Convention on Human Rights, which guarantees the right to a fair hearing within a reasonable time. He argued that this prolonged delay has caused serious and irreversible prejudice, including:

- Loss of CCTV evidence: Footage from hospital communal areas and corridors—where the alleged incidents occurred—was lost due to delay. He submitted the hospital failed to preserve it, despite being in control of the footage. He submitted that this evidence would have exonerated him, as the allegations are false.
- Destruction of WhatsApp group evidence: He submitted that the GMC failed to secure messages from a WhatsApp group used by the complainants and alleged victims to coordinate a smear campaign. He argued this groupchat was evidence linking the complainants to the alleged victims, showing manipulation, coaching, and retaliation against him for whistleblowing.
- Witness memory loss and unavailability: he submitted one of his key witnesses is now untraceable, and others have difficulty recalling events due to the passage of time.
- Deletion of his NHS email account which was pending a Subject Access Request.

Dr Kuppuswamy submitted that the cumulative effect of these delays has rendered a fair hearing impossible.

Conclusion

13. Dr Kuppuswamy submitted that in light of the aforementioned transgressions against the fundamental tenets of regulatory roles and principles, perpetrated by the complainants and the GMC, this investigation and case are rendered unlawful and thus null and void; any further proceedings would constitute an affront to the integrity of the judicial system. He submitted his case lacked fairness and were so flawed and biased that they compromised his right to a fair hearing. Therefore, Dr Kuppuswamy invited the Tribunal to grant an indefinite stay of proceedings.

<u>On behalf of the GMC</u>

14. Mr Fish submitted that the legal basis for a stay of proceedings is well-established and should be exceptional. He submitted it was not justified in the circumstances of this case.

Whistleblowing/ PIC process

15. Mr Fish accepted that Dr Kuppuswamy raised patient safety concerns at Withybush Hospital in August 2021. As a result, Dr Kuppuswamy alleges that false allegations were made against him in retaliation. He submitted that if it was Dr Kuppuswamy's case that GMC witnesses have chosen to tell lies about him, then it is open to Dr Kuppuswamy to challenge the GMC's evidence, question credibility, and explore any alleged motive for false allegations.

However, he submitted the majority of the issues raised by Dr Kuppuswamy are factual matters and are not appropriate for determination at this preliminary stage.

16. Mr Fish also accepted that on 22 October 2021, a referral was made to the GMC, which did not identify that Dr Kuppuswamy had raised patient safety concerns. As a consequence, the PIC procedure was not implemented at the initial stage. That error was subsequently acknowledged, and there was a delay in the PIC process being implemented. The PIC group concluded that due to the sexual nature of the allegation, it was difficult for the GMC to obtain evidence that was independent of the referral but suggested that PIC should be flagged and considered by the case examiner. He submitted that the Case Examiner's decision makes it clear that the patient safety concerns were considered in full, consistent with the PIC group's recommendation.

17. Mr Fish submitted that complaints about the handling or outcome of the PIC process were not for this Tribunal but more appropriately addressed by Judicial Review. The Tribunal should only consider the whistleblowing context insofar as it is relevant to witness motive.

Delay

18. Mr Fish referred to Dr Kuppuswamy's three complaints about delay and submitted that none of these issues identified by Dr Kuppuswamy are exceptional enough to warrant a stay.

- *Failure to retain/check CCTV:* Mr Fish acknowledged there is no CCTV available, however he submitted it is speculative in the extreme to suggest what, if anything, the CCTV would have shown. At best, CCTV might have covered Dr A's movements on or after 13 September 2021 in the corridor near the lift. It is now also suggested that footage might have existed covering a social event on 9 September 2021. However, there is no evidence that such footage ever existed or would have been helpful to either party. Even if potentially relevant CCTV was unavailable, the legal authorities are clear that the trial process is capable of accommodating such issues, and the absence of CCTV is something the Tribunal can take into account in its assessment of the evidence.
- *Incomplete WhatsApp messages:* Mr Fish submitted that all messages in police possession have been provided, and Dr A and Dr B have also disclosed what they had. Therefore, the GMC has done all it can to ensure that all of messages have been obtained. Dr Kuppuswamy can explore this with the witnesses if he wishes.
- *Witness memory*: Mr Fish submitted that Dr Kuppuswamy has also raised concerns about potential defence witnesses being unable to recall events. Despite enquiries, it has not been possible to identify who these witnesses are or what relevant evidence they could

have provided. It was always open to Dr Kuppuswamy to approach such individuals directly. In the absence of specific information, this issue remains speculative.

Email and Evidence Suppression

19. Mr Fish referred to Dr Kuppuswamy's suggestion that emails were suppressed. He submitted it remains speculative to suggest what material might have been in those emails or how it would have assisted the Tribunal. He submitted there is no concrete evidence of suppression.

Decisions of CPS and Pembrokeshire Social Services/police

20. Mr Fish submitted that Dr Kuppuswamy appears to rely heavily on the decisions of the CPS and Pembrokeshire Social Services. However he submitted these decisions did not amount to findings that the allegations were false or that Dr Kuppuswamy had been exonerated. Moreover, these are not independent evidence in themselves. They are merely assessments by third parties based on the information available to them at the time. The Tribunal is entitled to assess the allegations afresh, applying the civil standard of proof and the relevant overarching objective. Mr Fish also submitted that if it is now being alleged by Dr Kuppuswamy that the police investigation was also corrupted, that is a very serious accusation which is wholly unsupported. The Tribunal should bear in mind the independent nature of the original police investigation and the role of the police in obtaining witness evidence.

Conclusion

21. To conclude, Mr Fish submitted that none of the matters raised by Dr Kuppuswamy provide a proper basis for granting what would be a wholly exceptional remedy—a stay of proceedings. He submitted the points Dr Kuppuswamy raises are primarily factual, and they are best addressed during the hearing itself, where credibility, motive, and reliability will be fully explored. He submitted the Tribunal is well placed to deal with these issues fairly. Mr Fish therefore submitted that this application should be refused.

The Tribunal's Approach

22. The Tribunal accepted the legal advice of the Legally Qualified Chair on its approach to the application.

23. Throughout its deliberation the Tribunal considered the matter through the lens of the overarching objective.

24. The principles which governed abuse of process were taken from the criminal law, but that had been acknowledged as appropriate in *CRHP v GMC & Saluja [2006] EWHC 2784 (Admin).*

25. The Legally Qualified Chair explained that the tribunal may stay either the whole case or part of the case, and this may be done on a permanent or temporary basis. However, a stay of proceedings is a remedy of last resort, regarded as exceptional. In order to grant a stay, there must be something so gravely wrong that it would be unconscionable for a hearing to go forward, such as a disregard for basic human rights or a gross neglect of elementary principles of fairness. Where a party brings an application, it is for that party to establish the abuse of process. The presumption is that the case will proceed unless the applicant can displace that presumption to the civil standard, relying on one or both of the two categories established by the Supreme Court in *R v Maxwell [2010] UKSC 48*.

26. The LQC stated that that the Supreme Court in *R v Maxwell [2010] UKSC 48* confirmed two principal categories in which a court may stay proceedings on the grounds of abuse of process.

27. The first arises where it is impossible for the Doctor to receive a fair trial. In such cases, the Tribunal must stay the proceedings. If the Tribunal is satisfied the doctor can receive a fair hearing, it should then move on to consider the second category.

28. The second applies where, although a fair trial may be possible, the Tribunal must assess whether, in all the circumstances, continuing with the hearing would offend the Tribunal's sense of justice and propriety to be asked to try the accused in the particular circumstances of the case. Here a stay will be granted where the Tribunal concludes that in all of the circumstances a trial will offend the court's sense of justice and propriety or will undermine public confidence in the justice system and bring it into disrepute. In this second category the Tribunal should balance the public interest in the allegation being heard and the competing public interest with regards to the integrity of the justice system.

29. A stay should only be granted if there is no other route to achieving a fair hearing: the Tribunal could instead make other directions or modifications to address any potential unfairness.

The Tribunal's Determination

30. In reaching its determination the Tribunal considered whether either limb of the legal test set out in *R v Maxwell [2010] UKSC 48* was met, the Tribunal assessed the evidence across several themes as outlined in the submissions made by both parties.

Bad faith/Whistleblowing

31. The Tribunal accepted that Dr Kuppuswamy raised patient safety concerns in August 2021 while working at Withybush Hospital. It noted that he was subsequently informed of allegations of sexual misconduct made against him by alleged victims. Dr Kuppuswamy's case is that these witnesses colluded to fabricate their allegations in retaliation for his whistleblowing. He contended that the events surrounding the referral and investigation formed part of a wider cover-up, conspiracy, or manipulation by various hospital staff members, designed to discredit him and prevent scrutiny of patient safety concerns. However, the Tribunal found that Dr Kuppuswamy had failed to discharge his burden of proof in relation to the abuse of process that the alleged victims were aware of the whistleblowing disclosures when the allegations were made. It acknowledged that some individuals involved in the whistleblowing issues may also have been linked to the alleged victims.

32. The Tribunal considered that it needed to hear from the witnesses themselves and assess the weight and credibility of their evidence and consider any potential motive for fabrication or retaliation. These matters are to be tested in the substantive hearing. Dr Kuppuswamy will have the opportunity to challenge the allegations, to cross-examine the witnesses, and to put forward his own account in that forum.

33. The Tribunal also found that there was no proper evidential basis to support Dr Kuppuswamy's submissions that there had been bad faith on the part of the hospital or the GMC. There was insufficient evidence to support the claim of a deliberate cover-up or conspiracy, and the Tribunal did not find the timing of the whistleblowing disclosures and subsequent allegations to be relevant to each other or evidence of a retaliatory motivation. The Tribunal considered that these concerns did not amount to an abuse of process warranting a stay of proceedings.

Failure to identify Dr Kuppuswamy was the whistleblower in the GMC referral form and the PIC Process

34. The Tribunal accepted that the original referral to the GMC failed to identify Dr Kuppuswamy as a whistleblower. It acknowledged this failure led to a delay in implementing the PIC procedure. Dr Kuppuswamy argued that this omission was not accidental, but was a deliberate attempt to prevent the GMC from recognising him as a whistleblower and thereby deny him appropriate procedural safeguards. He submitted that a subsequent referral form was blank and unsigned, and contended that this was further evidence of a conspiracy or bad faith.

35. The Tribunal did not accept that the omission rose to that level. It found no clear evidence that the omission was intentional or that it was submitted to the GMC in a misleading or deceptive manner. While the delay in triggering the PIC process was acknowledged, it had ultimately been corrected, and the Case Examiners subsequently had full access to the relevant information, including knowledge of the whistleblowing of patient safety concerns.

36. The Tribunal considered the submissions regarding Dr C, who held multiple roles at the Trust and who Dr Kuppuswamy contends had a conflict of interest. He alleged that she may have assisted in drafting witness statements for the alleged victims. He further alleged that in her role as educational supervisor to the doctor who was subject of his patient safety concerns, she was influenced by a desire to retaliate against him. However, the Tribunal found that Dr Kuppuswamy had not discharged the burden of proving that any conflict of interest on her part compromised the fairness of the process or formed part of a wider conspiracy.

37. The Tribunal concluded that, although there had been shortcomings in the referral and early stages of investigation, these did not amount to impropriety or abuse of process. The errors identified do not preclude a fair hearing from now taking place.

Delay and the loss of evidence

38. Dr Kuppuswamy argued that delay in proceedings had caused the loss of key evidence, including CCTV footage, WhatsApp messages, emails and potential defence witnesses. He submitted that the cumulative effect of these losses was prejudicial and rendered a fair hearing impossible.

39. The Tribunal considered each category of lost evidence in turn. In respect of the CCTV footage, it accepted the evidence that security recordings were typically retained for only 30 days and that the footage was not preserved due to the time taken to notify Dr Kuppuswamy of the allegations. However, Dr Kuppuswamy's position on what may have been captured by the CCTV remained speculative. The fact that the CCTV evidence, if it ever captured any relevant incident, was not before the Tribunal would be a matter to consider at the substantive hearing and did not amount to an abuse of process.

40. The Tribunal also considered the WhatsApp group messages involving the alleged victims. While it accepted that some records may have been lost, it was not persuaded that the absence of these messages rendered the proceedings unfair. The argument that there was collusion/deception can be put to the GMC witnesses in cross-examination after which there can be a fair assessment of whether or not there was witness collusion and/or contamination.

41. Regarding defence witnesses, the Tribunal had not been provided with the names or roles of any such individuals or with details of the evidence they might have given that was relevant to the substantive allegations. Dr Kuppuswamy argued that the passage of time had affected their availability and memory, but the Tribunal considered that the time delay was not exceptional. In any event, it would have been open to Dr Kuppuswamy to obtain his own defence witness evidence. Dr Kuppuswamy told that Tribunal that he had previously had the benefit of legal representation at both criminal and regulatory stages.

42. Dr Kuppuswamy also argued that the deletion of his hospital email account, despite an outstanding subject access request, contributed to prejudice. There was no evidence that the deletion was carried out in bad faith or with the intention to obstruct his defence. Dr Kuppuswamy did not present to the Tribunal any evidence that the content of his email account would assist in determining the issues before the MPT.

43. The Tribunal considered that delay between allegations and a final hearing are common and in this case the time period is not exceptional. The Tribunal was mindful of the impact that the delay had on Dr Kuppuswamy's XXX and career, but concluded that there was no evidence to support either factor prejudicing Dr Kuppuswamy's ability to have a fair trial or otherwise present unconscionable factors. While the Tribunal did not negate all these issues, it did not reach the threshold of exceptional delay that would warrant a stay. The Tribunal found no basis to conclude that a fair hearing was impossible as a result of delay.

Decisions of the CPS and Pembrokeshire Social Services

44. Dr Kuppuswamy submitted that the decisions by the CPS and Pembrokeshire Social Services not to take further action against him should be treated as exoneration. He argued that these decisions meant that he had been cleared of all wrongdoing and that the GMC's continued pursuit of the allegations was improper. The Tribunal took these decisions into account but found that they did not prevent either the GMC or the MPTS from proceeding. It recognised that both the CPS and Pembrokeshire Social Services apply different legal thresholds, burden of proof (for the CPS), and have distinct objectives. The CPS made no findings of fact and simply declined to prosecute, a decision based partly on witness reluctance to give evidence. Social Services took no further action. The current Tribunal is a distinct regulatory body, required to assess the allegations independently using the civil standard of proof and guided by the GMC's overarching objective.

Conclusion

45. Under the first limb of *Maxwell*, the Tribunal found no reason why Dr Kuppuswamy could not receive a fair hearing. It was satisfied that the evidential and procedural matters raised could be fairly addressed during the substantive hearing and that Dr Kuppuswamy would have the opportunity to fully challenge the allegations and test the credibility of the witnesses.

46. Under the second limb, the Tribunal was not satisfied that the cumulative procedural shortcomings or delay would offend its sense of justice and propriety that it should prevent the hearing from proceeding. While it acknowledged mistakes, these did not reach the threshold as to amount to a fundamental abuse of process. The Tribunal did not accept that there was evidence of a deliberate cover-up or conspiracy. The suggestion that the GMC or individuals involved acted in bad faith was unsubstantiated by the evidence before the Tribunal and cannot justify a stay in proceedings.

47. Dr Kuppuswamy's defence is a factual dispute. Factual disputes can be fairly dealt with by the trial process before a professional Tribunal.

48. Dr Kuppuswamy is welcome to explore the evidence on a deliberate cover-up or conspiracy at the substantive hearing including via cross-examination of witnesses. This is the appropriate measure to ensure fairness and full ventilation of his position. This defence can then be fully and carefully assessed by the Tribunal.

49. The Tribunal must be guided by the overarching objective. Therefore, it considered that granting a stay at this stage, in the absence of evidence of abuse, would undermine the disciplinary process and the public interest in having serious allegations considered and, if appropriate, determined through a fair hearing.

50. Accordingly, the Tribunal refuses Dr Kuppuswamy's application for an indefinite stay of proceedings on the grounds of abuse of process. The Tribunal considered that a temporary stay would achieve no purpose.

ANNEX B – 11/09/2025

Application to admit further evidence

1. Dr Kuppuswamy made an application under Rule 34(1) and 35(5) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') to admit further evidence, namely to call six further witnesses.

2. The witnesses Dr Kuppuswamy's application related to were:

- Ms M
- Ms N
- Dr O
- Ms P
- Person Q
- Ms R

Submissions

Dr Kuppuswamy

3. Dr Kuppuswamy submitted that the additional witnesses that he wished to call were all individuals involved in the Public Interest Concerns ('PIC') process and the referral to the GMC, reiterating that there had been a failure to accurately complete the *Patient safety concerns* section of the GMC referral forms on multiple occasions. He submitted that he wished to seek their evidence and question their knowledge on his whistleblowing (which had not been accurately reflected on the GMC referral forms and had prevented the appropriate implementation of the PIC process) and any link between that whistleblowing,

the referral to the GMC and the subsequent allegations. He submitted that he sought the whole truth in this matter and had not been able to cross-examine these witnesses during his preliminary application for an indefinite stay of proceedings on the grounds of abuse of process.

4. Dr Kuppuswamy submitted that these six witnesses were crucial and important for the Tribunal to learn about the PIC link to the allegations made against him including how the referral reached the GMC. He submitted that maybe the complainants themselves were not aware of the whistleblowing matters, but that the people who progressed and advanced the GMC referral and the people who acted on it subsequently, were fully aware and did not take the necessary safeguarding steps or accurately reflect this in the referral or investigation process.

5. Dr Kuppuswamy submitted that the complainant's awareness or otherwise of the PIC process did not exclude anything, and that the people who made the decisions were supposed to have made them correctly and in good faith. He submitted that the GMC is a reputed organisation and regulator but has misrepresented the facts and then not taken appropriate action or followed this up with corrective measures. He submitted that he had complained about this matter through the formal complainant procedures with no result or resolution and so did not know where else to take this matter.

6. Dr Kuppaswamy submitted that it was in the public interest of the country, of patients, of the profession and of the statutory overarching objective to ascertain why the referral to the GMC was inaccurately made, amounting to misrepresentation of the facts, on multiple occasions.

<u>On behalf of the GMC</u>

7. On behalf of the GMC, Mr Fish, counsel, submitted that the individuals named have not provided any witness statements and it is not known whether they would be willing to do so, adding that some of the individuals listed were recognisable from the documentary evidence already provided to the Tribunal.

8. Mr Fish submitted that there was no dispute that Dr Kuppuswamy had raised whistleblowing concerns. Mr Fish asserted that the Tribunal had already received and considered material about that issue during its consideration of the preliminary matter of Dr Kuppuswamy's application for an indefinite stay of proceedings on the grounds of abuse of process, which it had refused.

9. Mr Fish submitted that Dr C and Dr F had been listed as witnesses, had provided statements and were scheduled to give evidence. He submitted that they were the two individuals who were present when the allegations appear to have arisen for the very first time, and would be available to Dr Kuppuswamy to cross-examine about any allegation of foul play or any ability to try to recruit or persuade people to make allegations that were not true issues, and explore this matter with them.

10. Mr Fish submitted that the failure to correctly complete the *Patient safety concerns* box on the GMC referral forms has nothing to do with Dr A and Dr B, or any of the other witnesses who give crucial factual evidence against Dr Kuppaswamy, and that it was not the role of this Tribunal to assess how well the PIC procedure was handled or mishandled, whatever the position may be.

11. Mr Fish submitted that the six witnesses now requested by Dr Kuppuswamy were therefore not going to assist the Tribunal in assessing whether Dr A and Dr B, or any other witnesses who the Tribunal would hear from, were telling the truth or have given accurate and reliable evidence. He submitted that none of these witnesses pass what is the fundamental test for any piece of evidence, and that is relevance, and therefore the application should be refused.

Tribunal's Decision

12. The Tribunal took account of the overarching objective and that the admission of further evidence is a matter for the Tribunal to assess with regard to the questions of fairness and relevance. The Tribunal had regard to Rules 34(1) and 35(5) of the Rules:

> ***34. (1)*** *The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.*
>
> ***35.***
>
> *…*
>
> ***(5)*** *The Committee or Tribunal may, on the application of a party or of its own motion, require a witness to attend a hearing and the relevant party shall exercise its power to compel attendance under paragraph 2 of Schedule 4 to the Act accordingly.*

13. The Tribunal acknowledged Dr Kuppuswamy's concerns about the Public Interest Concerns (PIC) review and GMC referral process, as raised at the preliminary stage of proceedings and set out in its determination on Dr Kuppuswamy's application for an indefinite stay of proceedings on the grounds of abuse of process. However, the Tribunal considered that it did not have the power or authority to make any decision on that aspect of the investigation or referral process, save for how it related to the Allegation which it had convened to consider.

14. The Tribunal therefore went on to consider whether the witness evidence that Dr Kuppuswamy sought to adduce was relevant to it reaching its decision on the Allegation, and whether it would be fair to admit.

15. The Tribunal noted that Dr A and Dr B, the key witnesses in the case, who had brought the allegations against Dr Kuppuswamy, were not involved in, or aware of, the PIC process.

16. The Tribunal considered that the additional witnesses that Dr Kuppuswamy sought to call were not involved in the alleged events relating to Dr A and Dr B. It concluded that these additional witnesses would therefore not be able to assist it in determining the facts of this case, and that Dr Kuppuswamy had not demonstrated how they would be able to assist the Tribunal in reaching its determination in this matter or their relevance to the Allegation.

17. The Tribunal therefore determined that the additional evidence requested as part of Dr Kuppuswamy's application was not relevant to the case and to refuse his application.

ANNEX C – 23/09/2025

Application to Adjourn

1. On 17 September 2025, Dr Kuppuswamy made an application to adjourn proceedings, pursuant to Rule 29(2) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).

Background

2. Following a break in her cross-examination of Dr A, Ms McNeill, special counsel, raised a matter with the Tribunal.

3. Ms McNeill informed the Tribunal that there was criticism being levelled at her by Dr Kuppuswamy in terms of her cross-examination of Dr A. She stated, that without revealing the precise nature of the criticisms, Dr Kuppuswamy had expressed deep reservations about the way in which she had been conducting his case in terms of cross-examination and that his expectations were not being met by the way in which she cross-examined. She stated that she felt that the time had come where she needed to raise this with the Tribunal.

4. Ms McNeill stated that were she to be representing Dr Kuppuswamy [as opposed to special counsel instructed for cross-examination of Dr A and Dr B, vulnerable witnesses] she felt that in accordance with her professional obligations, the point may have been reached where she would be considering whether she could continue to represent him.

5. Following a short break to consider applicable guidance, the Tribunal heard submissions from parties on the matter, and Dr Kuppuswamy, who was representing himself in these proceedings, submitted that he wished to adjourn proceedings to obtain legal representation.

Submissions

6. Ms McNeill went on to state that she was not going to allow anybody to criticise her in this way, but was also aware of the way in which she had been appointed and would continue to put the case, but that it would be in a very matter of fact way in accordance with the instructions that she had already received. She stated that she was confident that she had sufficient instruction to do so.

Dr Kuppuswamy

7. Dr Kuppuswamy submitted that the purpose of these proceedings was to bring out the truth and that he had a right to be fairly represented in respect of the cross-examination of vulnerable witnesses. He submitted that if there was no requirement for his interest to be represented, then he did not need to be in attendance and questioned that if the cross-examination is not in his interest, how would the Tribunal know the truth?

8. He submitted that there had been lots of opportunities where the dishonesty of Dr A could have been displayed on record but that this was given away and Dr A was given an opportunity to explain her way out of this, and that her account was untrue was not stressed upon.

9. Dr Kuppuswamy submitted that everybody has the right to a fair trial and therefore proceedings should be immediately adjourned to allow him the opportunity to seek his own legal representation. He submitted that collusion between Ms McNeill and Mr Fish had deprived him of independent representation, making the hearing unfair. He stated that he had observed both counsel discussing matters without him and that he had observed the slipping away of vital points in cross-examination which had strengthened the GMC narrative.

10. In response to Tribunal questions seeking to clarify his position, Dr Kuppuswamy submitted that whilst he had previously indicated that he could not afford to obtain legal representation, he stated that if he had to he would 'beg, borrow and steal' or sell off everything he has because he had now encountered the experience of what it is to be unrepresented in this case.

11. He said that he had made some enquiries in mid-August 2025 regarding obtaining legal representation, and that whilst he did not wish to give specific names, he could provide email evidence of this. He submitted that it may be the case that he would seek representation for the entirety of proceedings but that obtaining his own legal representation for the cross-examination of vulnerable witnesses was the essential issue.

<u>On behalf of the GMC</u>

12. On behalf of the GMC, Mr Fish, counsel, submitted that the GMC opposed the application. He submitted that this application should have been made at the outset of the hearing, and certainly not in the middle of Dr A's evidence. He submitted that Dr A had travelled XXX to attend these proceedings, a fact that Dr Kuppuswamy was well aware of, and that the Tribunal should also be aware that Dr Kuppuswamy had made a postponement application on 18 August 2025. He submitted that whilst that application, which was refused, did not relate to obtaining legal representation, the determination, which the Tribunal was provided, sets out that the issue of the need for legal representation was discussed at the pre-hearing stage.

13. Mr Fish submitted that Dr Kuppuswamy had been aware of the hearing for some time and had been provided ample opportunity to arrange his own legal representation if he wished.

14. Mr Fish submitted that Ms McNeill knew Dr Kuppuswamy's case and was able to continue to deal with cross-examination of Dr A, and any potential recall of Dr B. He submitted that in reality, this was quite a straightforward factual case and that the Tribunal had already observed that Dr Kuppuswamy had a solid understanding of the allegations against him and has had no difficulty in advancing his case.

15. Mr Fish submitted that Dr Kuppuswamy had not provided a great deal of information about the legal representatives he had contacted or the efforts he had made to secure legal representation and that the name of a legal representative had not been provided. He submitted that on the information that the Tribunal had, it seemed as though the application was made in hope rather than expectation that he would be able to obtain representation.

16. Mr Fish submitted that if the hearing were to be adjourned, it would inevitably result in these proceedings being delayed for many months, which given the stage of proceedings would be grossly unfair to the complainants. He submitted that in the circumstances, it was in the public interest to continue with these proceedings and that the application should be refused.

17. Both Ms McNeill and Mr Fish wished for it to be recorded on the record that they strenuously deny any collusion.

The Tribunal's Decision

18. Rule 29(2) states:

> *29.*
>
> *…*
>
> *(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.*

19. The Tribunal noted that Dr Kuppuswamy had made allegations of collusion between Mr Fish and Ms McNeill. It considered that Dr Kuppuswamy had advanced no reasonable basis or evidence for this, save that both counsel had a discussion which he had not heard, without him. This is common practice between legal representatives in the course of proceedings. Mr Fish and Ms McNeill strongly objected to any claims of collusion between them or inappropriate professional behaviours. The Tribunal explained to Dr Kuppuswamy in session that GMC, defence, or in this case special counsel, will often consult and update on housekeeping and procedural matters, and rejected his unsubstantiated assertion of collusion.

20. The Tribunal noted that when counsel speak to each other outside of the hearing they often assist the Tribunal. It would be irregular for both counsel to have a meeting to include the registrant doctor. Dr Kuppuswamy asked the Tribunal if they would be alerted to collusion by Mr Fish and Ms McNeill pausing their discussion when he approached them. The Tribunal does not share Dr Kuppuswamy's concern.

21. During his submission, the Tribunal questioned Dr Kuppuswamy in respect of whether he could now afford his own legal representation, having previously stated that he could not. In addition to his comments set out above, he told the Tribunal that had assets to sell, or that if that was not quick enough, he had a pension fund which he could 'tap into ASAP'. He stated that he would borrow money from his friends and family if necessary. He stated that he was unsure whether he would seek legal representation for the remainder of the hearing, or just in respect of the cross-examination of vulnerable witnesses.

22. In reaching its decision, the Tribunal was mindful of the need to balance the fairness of these proceedings to all parties and the broader public interest.

23. The Tribunal considered that whilst Dr Kuppuswamy stated that he sought to obtain legal representation, it had not been provided any evidence of recent, material efforts by him to do so. It noted that there was evidence before it that he had been previously legally represented prior to the commencement of the hearing.

24. The Tribunal also considered that this was the first time during proceedings that this matter had been raised by Dr Kuppuswamy, and that he was aware of the issue of legal representation, it having been discussed at the case management stage and due to him having been previously represented.

25. The Tribunal bore in mind Dr Kuppuswamy's submissions that Ms McNeill had not been effectively representing him or his case during her cross-examination of Dr A. It appeared to the Tribunal that Dr Kuppuswamy wished to have his case advanced and cross-examination undertaken in a way that Ms McNeill, as special counsel, was unable or unwilling to do, and that this was the basis for his criticisms of her performance.

26. The Tribunal noted that Dr Kuppuswamy had, at previous points in proceedings, been unable or unwilling to accept the evidence of GMC witnesses and their responses to questions when they did not agree with his position or support his case. The Tribunal had attempted on multiple occasions to explain to Dr Kuppuswamy that it is normal in the course of proceedings for parties and witnesses to disagree on the facts or events, and that both parties would have the opportunity to make submissions on the credibility and reliability of the evidence and witnesses, and the facts of the case.

27. Dr Kuppuswamy's criticism of Ms McNeill included that Dr A had furthered the GMC narrative in response to the cross-examination by Ms McNeill. The Tribunal had the benefit of hearing the cross-examination by Ms McNeill which had, so far, been advanced consistently with the role expected of a barrister cross-examining a vulnerable witness. The fact that Dr Kuppuswamy considered Dr A's answers to advance the GMC case does not equate to Ms McNeill promoting the GMC case. Once Ms McNeill asked a question she was bound to listen to the answer. Dr A's answers were neither inadmissible, unnecessarily long or off topic, so it would have been wrong for Ms McNeill to interrupt. As has been explained to Dr Kuppuswamy, cross-examination includes the opportunity for witnesses to respond to challenges of them. It has also been explained to Dr Kuppuswamy that it is common during competent cross-examination that the witness will not agree with the conclusions of the cross-examining advocate.

28. Further, Dr Kuppuswamy criticised that Ms McNeill had not put all of his evidence of dishonesty to Dr A. Ms McNeill has unambiguously cross-examined Dr A on the basis that she is either mistaken or lying. It does not follow that a failure to repeatedly make this point is a fair criticism, not least because all barristers would be aware that a fair Tribunal would prevent them from making the same point multiple times, especially with a vulnerable witness.

29. It is overwhelmingly likely that Ms McNeill and Dr Kuppuswamy will view some of the evidence through a different lens. For example, the Tribunal is aware that Dr Kuppuswamy considers that the Crown Prosecution Service decision not to proceed to a full criminal hearing equates to evidence that Dr A is dishonest. Ms McNeill has a duty not to mislead the

Tribunal and would be prevented by her own ethical duties, dictated by her regulator, from advancing points which are untrue or misleading. A decision of the Crown Prosecution Service not to proceed does not equate to a finding of dishonestly against a complainant. Ms McNeill would be right not to ask a question of Dr A which suggests otherwise.

30. Dr Kuppuswamy is concerned that Ms McNeill has not been following his cross-examination plan/strategy. Dr Kuppuswamy is reminded that the law mandates the appointment of special counsel, which reflects that the intention of Parliament was that experienced advocates, trained in how to conduct the cross-examination of a vulnerable witness must be the ones to do so. Dr Kuppuswamy is not an experienced advocate, has not attended vulnerable witness advocacy training to inform his questioning strategy and is the registrant doctor. It is not suspicious or surprising if Ms McNeill's plan of how to cross-examine differed to Dr Kuppuswamy's proposed plan. Any advocate cross-examining a vulnerable witness would be required to follow modern vulnerable witness training protocols thus it is likely that any alternative advocate would also differ in their professional approach as compared to Dr Kuppuswamy.

31. Dr Kuppuswamy is worried that Ms McNeill may have exposed what his case is to either the GMC and/or Dr A. Dr Kuppuswamy has been reminded that this Tribunal will not permit a trial by "ambush". It is standard that the witness understands the nature of the challenge against them. The Tribunal expect Ms McNeill to ask questions in a straightforward manner that can be understood by everyone in the room. As Dr Kuppuswamy has experienced in the hearing when asking questions himself, if questions are unclear in language or purpose the expectation should be that the Tribunal, likely through the LQC, will seek clarification.

32. The Tribunal was not satisfied that, on the basis of the evidence, there was a reasonable likelihood that Dr Kuppuswamy would be able to obtain ongoing legal representation in the near future. It reached this conclusion in light of his previous unsuccessful attempts to secure ongoing legal representation. Dr Kuppuswamy has made the Tribunal aware of instruction of multiple lawyers. Relationships have seized for various reasons including payment arrears and, allegedly, a lawyer calling him whilst they were drunk to apologise to Dr Kuppuswamy that they would have to let him down and withdraw. The Tribunal have reviewed the MPTS Pre-hearing meeting dated the 13 June 2025. At that stage Dr Kuppuswamy had the assistance of a lawyer but was self-representing. At that stage Dr Kuppuswamy was "*hoping to secure legal representation*.". Dr Kuppuswamy was aware, at least from this meeting that special counsel would be appointed for some witness cross-examination if he was self-represented at this hearing.

33. The Tribunal was also concerned about the impact of an adjournment on the effective progress of these proceedings, and the unfairness to the vulnerable witnesses, particularly Dr A, who was in the middle of being cross-examined and had travelled XXX to do so. It noted that Dr A was only available for one more day, as was Ms McNeill as special counsel.

34. The Tribunal was satisfied that Ms McNeill was in a position to conclude her cross-examination of Dr A and had already taken instruction from Dr Kuppuswamy and was aware of the case that he wished to advance.

35. In considering the impact and fairness to all parties and the interests of justice, the Tribunal determined to refuse Dr Kuppuswamy's application and proceed with Dr A's cross-examination by Ms McNeill.

ANNEX D – 30/09/2025

Determination on direction of XXX

1. On 18 September the Tribunal invited submissions from both parties on whether to adjourn and XXX.

2. The Tribunal raised this matter having identified that Dr Kuppuswamy was potentially having challenges engaging with the proceedings and XXX. The Tribunal considered that there could be XXX, and so to ensure a fair hearing sought submissions on the matter from both parties.

Submissions

<u>On behalf of Dr Kuppuswamy</u>

3. Dr Kuppuswamy, who gave his submissions the following day, submitted XXX

4. XXX

5. Dr Kuppuswamy submitted that his real issue was the unfairness of the proceedings and the Tribunal's decision to continue the cross-examination of Dr A with the instructed special counsel despite his objections.

On behalf of the GMC

6. Mr Fish submitted the Tribunal should not adjourn for XXX

7. Mr Fish submitted that it was clear that Dr Kuppuswamy has been able to engage in these proceedings and advance his case to the Tribunal. XXX.

8. XXX

9. XXX

The Tribunal's Determination

10. In reaching its decision, the Tribunal bore in mind Rule 17XXX of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules), XXX

11. It also bore in mind the Guidance, XXX

12. The Tribunal considered the submissions made by both parties, XXX

13. XXX

14. The Tribunal was of the view that it had been appropriate to raise the matter and seek submissions given the potential implications for Dr Kuppuswamy to be able to fairly engage with proceedings. However, it concluded that in light of the submissions of both parties it would not be proportionate or necessary to adjourn to XXX.

15. The Tribunal accepted that Dr Kuppuswamy is an unrepresented doctor, without a legal background, in a stressful situation, who was at times frustrated with proceedings and the decisions of the Tribunal.

16. XXX

17. The Tribunal noted that it was open to it to reconsider this position should it be necessary at a future time, and that Dr Kuppuswamy was able to raise any challenges or difficulties if they arose.

18. Accordingly, the Tribunal determined not to adjourn to XXX.

ANNEX E – 23/09/2025

Application for the Tribunal to recuse itself

1. On 18 September 2025, Dr Kuppuswamy made an application for the Tribunal to recuse itself and for the case to be re-listed before a freshly constituted Tribunal.

Submissions

Dr Kuppuswamy

2. Dr Kuppuswamy submitted that the Tribunal refused his application to adjourn to allow him to seek independent legal representation following his loss of confidence in the appointed special counsel, Ms McNeill, and determined that Ms McNeill should conclude her cross-examination of Dr A. He submitted that this direction was made after both GMC counsel and special counsel jointly requested that she continue, aligning their positions against him.

3. Dr Kuppuswamy submitted that the appearance of bias test set out in *Porter v Magill [2002] 2 AC 357* was applicable, namely whether *"a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias."* He submitted that a fair-minded observer would see a Tribunal siding with GMC counsel and special counsel to preserve her continued role, against the registrant's express objections.

4. Dr Kuppuswamy submitted that his right to a fair hearing included independent and effective representation and that forcing a representative he had rejected upon him, after he raised specific evidence of collusion, breached Article 6 and undermined confidence in the fairness of the proceedings. He submitted that the integrity of the process of justice must not only be done but must be seen to be done (*R v Sussex Justices, ex p McCarthy [1924] 1 KB 256*) and that the alignment of the Tribunal, GMC counsel and special counsel created the clear appearance of partiality.

5. Dr Kuppuswamy submitted that the Tribunal should therefore recuse itself and the case be re-listed before a fresh Tribunal, with proper arrangements for independent representation.

On behalf of the GMC

6. Mr Fish submitted that in respect of the procedure, the Tribunal had simply enforced Rule 36(5) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules) whereby a special counsel is instructed to conduct cross-examination of vulnerable witnesses in a case involving allegations of a sexual nature where the doctor is representing themselves. This rule reflects the position in law and is not unique to Dr Kuppuswamy.

7. Mr Fish submitted that special counsel was appointed by the MPTS but Ms McNeill was not working for the Tribunal, and that Ms McNeill is wholly independent of the GMC and this Tribunal. He submitted that all the MPTS had done was to effectively instruct her to act as an independent advocate. He submitted that the Tribunal, in reality, had no discretion about that in the circumstances and that the cross-examination had been conducted appropriately.

8. Mr Fish submitted that the Tribunal had thus far accommodated Dr Kuppuswamy in every way it possibly could and that every allowance has been made for the fact that Dr Kuppuswamy is self-represented. He submitted that advice has been offered on procedure and assistance has been provided in formulating questions. Ultimately, the procedural rules of evidence apply to both parties.

9. Mr Fish submitted that this Tribunal has done nothing more than enforce procedural rules that exist and correctly applied the law, such that no informed, fair-minded observer would consider that this Tribunal was biased and that the application for the Tribunal to recuse itself should be refused.

The Tribunal's Determination

10. The Tribunal considered that Dr Kuppuswamy had not put forward any compelling reason for the Tribunal to recuse itself and that his application was based on its earlier decision not to adjourn proceedings to allow him to seek his own legal representation to conclude the cross-examination of Dr A.

11. For the reasons set out in its written determination on the adjournment application, the Tribunal was of the opinion that there was no good reason to interfere with special counsel's professional duty and her role in the proceedings. Further, it found that there was no evidence of collusion between special counsel and GMC counsel, the evidence at its

highest amounting to an oral account by Dr Kuppuswamy that Mr Fish and Ms McNeill had been seen talking outside the hearing room. It previously determined that Ms McNeill was appropriately appointed and sufficiently briefed on Dr Kuppuswamy's case that she could fairly conclude her cross-examination of Dr A.

12. Ms McNeill had no obligation to repeatedly interrogate Dr A on the answers that she gave simply because they did not accord with Dr Kuppuswamy's account of events. Not only was there no obligation for Ms McNeill to conduct herself in this manner, to do so would point to inappropriate conduct of an advocate.

13. The Tribunal is not biased because one or more applications made by Dr Kuppuswamy have been refused. Professional Tribunals are expected to adjudicate on a variety of issues throughout the course of proceedings and then continue presiding over the case.

14. The Tribunal determined that the proceedings were fair and that a fair-minded and informed observer, having considered the facts, would not conclude that there was a real possibility of bias in this case, and therefore refused the application to recuse itself.

ANNEX F – 23/09/2025

Application to recall Dr B to give further evidence

1. On 18 September 2025, Dr Kuppuswamy made an application for the Tribunal to recall Dr B for further cross-examination.

Submissions

Dr Kuppuswamy

2. Dr Kuppuswamy submitted that there was concrete evidence of problems with Dr B's memory, and that more than inconsistencies and contradictions, these amounted to false memories, fabrications and the inventing of events in her statements between the police and the GMC. He submitted that confabulation is a serious thing that undermines her statements completely and also alerts the Tribunal to the reliability and credibility of her evidence.

3. Dr Kuppuswamy submitted that Dr B invented the situation and that the question is whether there is a sound mind behind all these memories. He submitted that for somebody

as young as Dr B to invent events is quite alarming, that he has seen lots of patients do it and that there will be secondary reasons for it. He submitted that one reason could be a past event, another could be a post-traumatic stress, and additionally it could be due to the consumption of alcohol. XXX.

4. Dr Kuppuswamy submitted that the question is whether Dr B's false memories are as a result of past events that have occurred to her, and that her evidence references that she has XXX

5. Dr Kuppuswamy submitted that he had asked special counsel to explore this further but she did not, and that he was not allowed to cross-examine Dr B's partner on these matters. He submitted that Dr B should therefore be recalled in order that she be further cross-examined on the matters of previous events and their link to XXX, her potential XXX, and any links to her confabulation of events.

On behalf of the GMC

6. Mr Fish submitted that the GMC's position was that Dr B should not be recalled. He submitted that the fact that Dr B had consumed, and was under the influence of, alcohol at the party was not in dispute. He submitted that Dr B's witness statement contains information about her previous experiences and how that has impacted her, but that to try and connect Dr B's alcohol consumption at the party on the 9 September 2021 with those previous events would be entirely inappropriate and that it would be outrageous if Dr B was required to come to answer these issues.

7. Mr Fish submitted that such evidence would not be admissible, that there is no evidential basis for it and that Dr Kuppuswamy cannot give expert evidence about these matters, which he was attempting to do. He submitted that there has to be an evidential basis for what is to be asserted to a witness and that to try and connect all of these matters in the way that Dr Kuppuswamy was attempting to do did not constitute an evidential basis.

8. Mr Fish submitted that if Dr Kuppuswamy wishes to use Dr B's alcohol consumption or past experiences as a way of trying to undermine her credibility, then that is a submission that he is perfectly entitled to make in due course, and the Tribunal would attach whatever weight to that it considered appropriate.

The Tribunal's Determination

9. In reaching its decision, the Tribunal considered that Dr Kuppuswamy was applying to recall Dr B so that he could put to Dr B that she may XXX and that her memory may be adversely effected by XXX. It noted that Dr Kuppuswamy is not present as a medical expert or expert witness, nor is Mr Fish, and that there was no expert or objective evidence to this effect.

10. The Tribunal considered that the point that Dr B may have incorrectly recalled or confabulated events was broadly put to her by special counsel Ms McNeill and Dr B provided a response.

11. It was an accepted fact that Dr B had consumed alcohol on the night in question and was under its influence to some extent, and the Tribunal was satisfied that Dr Kuppuswamy would have the opportunity to make submissions on this and how much weight, if any, the Tribunal should attribute to her account given this factor.

12. The Tribunal concluded that it would not be appropriate for it to attempt to reach a determination on potential XXX without expert medical evidence, nor could it reach a determination on whether Dr B was XXX leading to false memories.

13. The Tribunal considered that in the circumstances, it would not be appropriate to cross-examine Dr B further on these matters and that there were not sufficient grounds to recall her for further cross-examination.

14. Accordingly, the Tribunal determined to refuse the application.

ANNEX G – 23/09/2025

Application to exclude witness evidence of Dr A and Dr B

1. On 18 September 2025, Dr Kuppuswamy made an application for the Tribunal to exclude the cross-examination evidence of Dr A and Dr B, and to exclude the GMC statements of Dr A.

Submissions

Dr Kuppuswamy

2. Dr Kuppuswamy submitted that the statements of Dr A should be excluded from the GMC evidence as there were multiple and significant inconsistencies within her various accounts of events to the police and the GMC which demonstrated dishonesty on her part. He submitted that *"Her dishonesty to the police destroyed the integrity of her account and she lied to the GMC."* He submitted that the Tribunal should: find that Dr A's evidence is tainted by dishonesty; record this explicitly in its determination; treat her evidence as manifestly unreliable and incapable of supporting any adverse finding; consider referral of the matter to the GMC Registrar for onward referral to police/CPS for investigation of potential false declarations; and, stop proceedings.

3. Dr Kuppuswamy submitted that there were contradictions between the accounts of Dr A and Dr C, and that there was a severe conflict of interest in respect of Dr C's evidence owing to her role in the handling of the whistleblowing concerns raised by Dr Kuppuswamy. He submitted that the evidence of Dr A and any other statements shown to have been drafted, influenced, or coordinated by Dr C, including potentially Dr B, be excluded from the GMC's evidence. He submitted that these statements are not independent, not consistent, and not reliable, they are tainted by conflicts of interest, contradictions, and potential dishonesty, and that admitting such statements would offend basic fairness and Article 6 protections.

4. Dr Kuppuswamy further submitted that the cross-examination evidence of both Dr A and Dr B should be excluded and ruled as inadmissible on the basis that he had clearly set out to the special counsel that Dr C was the orchestrator of the entire issue and he had emailed Ms McNeill questions to be put in cross-examination. He submitted that, subsequently, GMC counsel appeared to be protected by the Tribunal from these lines of questioning with the Legally Qualified Chair at times enforcing restrictions that prevented Dr C being questioned on her conflicted roles.

5. Dr Kuppuswamy submitted that the Tribunal cannot rely on cross-examination to cure the defect, since the cross-examination process had itself been compromised by collusion between appointed [special] counsel and GMC counsel, and by concessions made against his instructions.

6. Dr Kuppuswamy submitted that the integrity of these proceedings would be irreparably undermined were such evidence admitted, and that any determination based on such tainted evidence would be unsafe.

On behalf of the GMC

7. Mr Fish submitted that in being asked to exclude the evidence of Dr A and the cross-examination evidence of both Dr A and Dr B, Dr Kuppuswamy was effectively asking the Tribunal to stop the proceedings on the premise that there was an evidential basis to conclude that Dr A had not told the truth and that the cross-examination had not been conducted fairly.

8. In respect of Dr A's evidence, Mr Fish submitted that the issues that Dr Kuppuswamy raises about Dr A and her credibility are factual matters which the Tribunal will have to consider and resolve in due course, but are not admissibility points which could warrant the exclusion of evidence at this stage. He submitted that the points Dr Kuppuswamy wishes to make regarding credibility of evidence would be relevant to the Tribunal when assessing whether it finds the allegations proven and whether it accepts the evidence that it has heard from Dr A and all of the other witnesses. He submitted that the evidence is clearly relevant and fair, satisfying the admissibility test of Rule 34 of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).

9. Mr Fish submitted that it would be open to Dr Kuppuswamy to make a submission of no case to answer at the conclusion of the GMC case if he wished to do so.

10. In respect of the exclusion of the cross-examinations of Dr A and Dr B, Mr Fish submitted that matters of special counsel and the procedure to be adopted in such cases has already been considered by the Tribunal. He submitted that the cross-examination had been conducted appropriately and the procedure explained to Dr Kuppuswamy.

11. Mr Fish submitted that none of the matters Dr Kuppuswamy raises should lead the to the exclusion of any evidence or to the Tribunal choosing to stop the proceedings at this stage.

The Tribunal's Determination

12. The Tribunal considered that in respect of the inconsistencies identified in Dr A's evidence by Dr Kuppuswamy, these were not sufficient evidence that Dr A's evidence

amounted to dishonesty or required the exclusion of her evidence from these proceedings or consideration by the Tribunal in due course. The Tribunal concluded that to entirely exclude a witness' evidence would be an extraordinary and unusual step, and that the elements that Dr Kuppuswamy has highlighted were not so fundamental as to lead to the belief that the evidence was too flawed to admit as evidence.

13. The Tribunal noted that the inconsistencies that concerned Dr Kuppuswamy could be the subject of his submissions at the fact stage, and that it was also open to him to make a half-time application under Rule 17(2)(g) which states:

> *17.*
>
> *…*
>
> *(2) The order of proceedings at the hearing before a Medical Practitioners Tribunal shall be as follows—*
>
> > *…*
> >
> > *(g) the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld;*

14. The Tribunal was satisfied that Dr Kuppuswamy would be able to make the appropriate submissions and put his case in respect of the evidence of all witnesses, and that the Tribunal would then consider the appropriate weight to attach to the evidence in reaching its determination, either in respect of the facts or as part of a half-time application should Dr Kuppuswamy wish to make one.

15. In respect of Dr Kuppuswamy's submission that the cross-examination evidence of both Dr A and Dr B be excluded, it noted that this was on the basis that the cross-examination was conducted unfairly, was biased against him, and that he had not been provided or allowed proper representation. The Tribunal had already considered this matter in respect of the adjournment application submitted by Dr Kuppuswamy, as set out at Annex C. The Tribunal was satisfied that the cross-examination had been conducted fairly and

appropriately, and that there was no evidence that special counsel and GMC counsel had colluded or conspired against Dr Kuppuswamy in order to bolster the GMC's case.

16. The Tribunal noted that it had explained the procedure around the appointment of special counsel to Dr Kuppuswamy and had sought to make XXX to the hearing schedule and process in order to assist him in participating in these proceedings.

17. In respect of Dr C's evidence, the Tribunal noted that Dr C was yet to conclude her evidence and was due to attend in-person to allow Dr Kuppuswamy to conclude his cross-examination, at his request. As previously considered at the preliminary stage (Annex A) the Tribunal did not find that the whistleblowing process regarding concerns that Dr Kuppuswamy had raised, as accepted by all parties, were sufficient to amount to an abuse of process. There remains no evidence that Dr A and/or Dr B were aware of the relevant whistleblowing process or the issues raised by Dr Kuppuswamy. Both Dr A and Dr B were asked about the whistleblowing matters but could not answer further questions on the topic as they entirely denied any knowledge of it.

18. Accordingly, the Tribunal therefore determined to refuse this application.

ANNEX H – 25/09/2025

Application to admit hearsay evidence

1. On 23 September 2025 Mr Fish made an application on behalf of the GMC, pursuant to Rule 34(1) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules), to admit evidence from Dr G, a deceased witness. This evidence was Dr G's Police Witness statement, dated 29 December 2021.

2. In support of the application, the Tribunal was provided a screenshot of Dr G's GMC registration profile, and an online post XXX, both demonstrating that Dr G was deceased.

Submissions

<u>On behalf of the GMC</u>

3. Mr Fish submitted that the Tribunal has a very wide discretion in terms of the fact of evidence it can receive as long as it is relevant and fair, including 'hearsay' evidence. He

submitted that Dr G's evidence is relevant to the Allegation as he was at the party on 9 September 2021 and he gives some evidence about the interaction between Dr Kuppuswamy and Dr B in terms of what he himself observed.

4. Mr Fish submitted that it is accepted that Dr G's evidence is challenged by Dr Kuppuswamy but for reasons which are unavoidable, Dr G is not available for cross-examination. He submitted that Dr G's evidence is not the sole or decisive evidence against Dr Kuppuswamy, but that his evidence is capable of being important in the context of the case. Therefore, the Tribunal are not being invited to effectively find allegations proven solely on the basis of a witness who is not available to give evidence.

5. Mr Fish submitted that Dr Kuppuswamy was made aware of this evidence at the beginning of September 2025, before this Tribunal convened. He's been reminded of it on a number of occasions whilst the Tribunal has been going on. He submitted that the test for admissibility is met and that what weight is attached to it will ultimately be a matter for the Tribunal.

Dr Kuppuswamy

6. Dr Kuppuswamy submitted that GMC counsel has admitted that this is not the sole or the decisive evidence in this case and that they already have another person.

7. Dr Kuppuswamy submitted that any evidence should be tested, and that any allegation should be put to the test of credibility before it becomes evidence of reliability. He submitted that he would not have any opportunity to challenge this evidence whatsoever, which would not result in the equality of arms nor fairness.

8. Dr Kuppuswamy submitted that as he would not be given the opportunity to cross-examine the witness, it would be unfair to admit his statement.

Legal Advice

9. The Tribunal reminded itself of Rule 34(1) of the Rules which states that:

> *'34(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.'*

10. Essentially therefore, admissibillity of evidence is at the discretion of the Tribunal and it should have regard to the interest of fairness and also consider the balance of prejudice to each party. The decision should also be considered through the lense of the overarching objective.

11. In considering fairness, it was important for the Tribunal to apply the legal principles derived from the case of *R (BonHoeffer) v GMC [2011] EWHC 1585 (Admin),* as confirmed in the case of *Freeman v GMC [2023] EWHC 45 (Admin)*, and the case of *Thorneycroft v NMC [2014] EWHC 1566 (Admin).* The Tribunal was aware that there were two distinct stages to assessing fairness when considering hearsay evidence in regulatory proceedings: stage one being admissibility and stage two being the weight to be attached to the hearsay evidence.

The Tribunal's Decision

12. The Tribunal considered that there was a clear and obvious reason for Dr G's non-attendance and that he was deceased was not contested by Dr Kuppuswamy.

13. The Tribunal was of the opinion that the evidence itself was relevant to the Allegation before it and would be capable of assisting in its consideration of the facts. It noted that this was not the sole evidence, nor was it decisive evidence against Dr Kuppuswamy.

14. Overall, the Tribunal concluded that the evidence was clearly relevant, and that given it was supportive hearsay evidence to which appropriate weight could be attributed, it would be fair to admit.

15. Accordingly, the Tribunal determined to grant the application.

ANNEX I – 30/09/2025

Determination on other matters raised by Dr Kuppuswamy

1. On 18 September 2025 Dr Kuppuswamy made an application in writing, as set out below.

Application for Self Cross-Examination of Dr A & Application for Cross-Examination with LQC Assistance

2. Dr Kuppuswamy also applied to be permitted to conduct the cross-examination of Dr A personally or, in the alternative, to be allowed to put specific questions directly, with the Tribunal or Legally Qualified Chair acting as an intermediary.

3. He further applied to be permitted to submit his questions for Dr A to be asked verbatim by the Tribunal Chair or Legally Qualified Chair, with no dilution or alteration.

4. Dr Kuppuswamy submitted that the grounds for these applications was the breakdown in his relationship with special counsel. He submitted that concessions were made by special counsel against his express instructions, including during the cross-examination of Dr A and Dr B and that he had disclosed his cross-examination strategy in good faith to special counsel, but it had become apparent that this trust was breached.

5. The Tribunal considered that no registrant would be allowed to cross-examine vulnerable witnesses themselves (except without the express written consent of the witness(es)) and that it did not have the authority to overrule this. It also considered that it would be inappropriate for the Legally Qualified Chair to act as either a special counsel or Dr Kuppuswamy's representative in this fashion and that such an approach was neither reasonable nor permissible.

6. The Tribunal already provided its reasonings in relation to the conclusion of special counsel's cross-examination of Dr A in its determination on Dr Kuppuswamy's application to adjourn to seek legal representation, and in its determination on his application to recuse itself following its determination that special counsel should conclude her cross-examination of Dr A.

Further Applications

7. On 22 September 2025 Dr Kuppuswamy made further applications, as set out below.

Application to preserve transcript and mark cross-examination as disputed

8. Dr Kuppuswamy requested that the Tribunal direct that the transcripts of the cross-examinations of Dr A and Dr B conducted by the appointed special counsel be preserved in full and marked as disputed.

9. The Tribunal noted that all transcripts of the hearing were preserved. It considered that whilst there were no rules or mechanisms for it to formally mark the evidence of Dr A and Dr B's cross-examinations as "disputed", Dr Kuppuswamy's objections were a matter of record.

Public Hearing

10. Dr Kuppuswamy applied for *"this hearing to be conducted as a true public hearing within the meaning of Article 6(1) ECHR, with external transparency safeguards, including the presence of patient support groups, whistleblower protection organisations, defence unions, and accredited media observers."*

11. The Tribunal emphasised that this hearing has been in public from the outset, save for when matters relating to XXX have been discussed. It is not the Tribunal's role, nor is it within its powers to invite other parties or members of the press or public to attend, although this option has been available to Dr Kuppuswamy should he wish to exercise it.

Right to refer

12. Dr Kuppuswamy submitted that despite his objections, GMC counsel proposed, and the Tribunal directed, that the special counsel should proceed with the cross-examination of Dr A. He stated that he reserved his right to refer this matter to the Bar Council/Bar Standards Board for investigation into the professional conduct of the barristers involved.

13. The Tribunal noted that Dr Kuppuswamy has a right to refer such matters if he wished but that it did not have the authority to grant or refuse such a right and so there was no application for it to determine. The Tribunal's position on this matter was set out in its determinations on adjournment and recusal.

Objections to cross-examination of Dr A and Dr B

14. Dr Kuppuswamy requested that the cross-examinations of Dr A and Dr B be declared unsafe, and their evidence excluded or given no weight. He requested that both cross-examinations of Dr A and Dr B be recorded as objected to by the defence as tainted for examination by another court.

15. The Tribunal noted that it had set out its reasons as to why the evidence of Dr A and Dr B would not be excluded at Annex G, and that there was no formal process or mechanism for it to formerly record such objections. However, Dr Kuppuswamy had made his position on their evidence clear, which was a matter of record.

Application To Preserve Transcript and Record of Legal Gagging of the Defendant Whistle Blower by the GMC Counsel, Special Counsel and the Tribunal while conducting, a colluded, conflicted and corrupted cross examination

16. Dr Kuppuswamy submitted that he was gagged in open court and unable to object to unfair or untruthful answers. He submitted that the cross-examination of Dr A and Dr B was conducted by a conflicted special counsel, against instructions, effectively assisting GMC counsel. He submitted that the Tribunal relied on that cross-examination, meaning the evidence was not genuinely tested for credibility or reliability, and that this breached his rights and undermined the fairness of the entire hearing. He requested that the complete transcript of their evidence be preserved and that the Tribunal record that he did not consent to special counsel's appointment and that he was prevented from objecting to the questions of special counsel and/or objecting to the answers from Dr A during cross-examination.

17. The Tribunal emphasised that special counsel was instructed by the MPTS to cross-examine Dr A and Dr B due to the nature of the Allegation as a matter of law. No unrepresented doctor in these circumstances would have been allowed to object or interject during the cross-examination by special counsel and so Dr Kuppuswamy was not withheld any right or *"gagged"*. Similarly, it is expected that the registrant doctor will not agree with the main complainant witness(es) in the case against them. No doctor in a case like this would be permitted any version of a live rebuttal. To allow this live challenge by Dr Kuppuswamy would be distressing for Dr A and Dr B and would be a clear departure from the usual Tribunal process which has been designed to include turn-taking as a feature of fairness. Instead, Dr Kuppuswamy will have the opportunity to give evidence and the right to make any submissions about the evidence given by Dr A and Dr B at a later stage in the process.

18. As set out in its previous determinations, the Tribunal was not provided any evidence of collusion between GMC counsel and special counsel and the cross-examination conducted was appropriate. All transcripts are saved for these proceedings and Dr Kuppuswamy's objections are a matter of record.

19. The Tribunal emphasised that it had not *"accepted"* any of the evidence of Dr A or Dr B as asserted by Dr Kuppuswamy, nor any of the evidence in the case. The credibility or weight, if any, it would attach to such evidence was a matter that it would consider following submissions during its deliberations on the facts.

ANNEX J – 30/09/2025

Application for the Tribunal to recuse itself

1. On 22 September 2025, Dr Kuppuswamy made a further application for the Tribunal to recuse itself and for the case to be re-listed before a freshly constituted Tribunal.

Submissions

On behalf of Dr Kuppuswamy

2. Dr Kuppuswamy submitted that the Legally Qualified Chair and Medical Tribunal Member together introduced unsubstantiated XXX and false narratives into the proceedings without XXX evidence, safeguards, or relevance when requesting submissions from parties on whether it would be appropriate to adjourn to XXX.

3. Dr Kuppuswamy submitted that this episode risked XXX, undermining his credibility, and suggesting that his legitimate concerns about collusion were "[XXX]*."* He submitted that even though the proposal was dropped, the fact that it was aired and endorsed in open court creates a lasting appearance of bias and unfairness.

4. Dr Kuppuswamy submitted that the medical member advanced this proposal in open court, gesturing towards the Chair and stating that *"some decisions are being made"* in the course of the hearing and suggested that if Dr Kuppuswamy were XXX, this might *"help"* him by allowing the Tribunal to make the hearing *"fairer"* or to grant *"concessions."* Dr Kuppuswamy submitted that the precise words are preserved on the transcript, but the implication was clear: that adverse decisions may already be underway at the fact-finding stage, and that XXX to him could influence or mitigate those decisions. He submitted that this suggestion is procedurally improper and creates a real risk of prejudice, implying that fairness depends not on evidence but on XXX.

5. Dr Kuppuswamy submitted that at the same time, the Chair endorsed a false narrative by stating that he had *"sought legal advice from six barristers."*, a claim which had no evidential basis. He submitted that the combination of XXX and unfounded personal assertions compounded the prejudice against him and the Tribunal should therefore recuse itself.

On behalf of the GMC

6. Mr Fish submitted that Dr Kuppuswamy was essentially accusing two members of the Tribunal of bias against him. He submitted that what the Tribunal has done is comply with its overriding duties in terms of the overarching objectives, but also its responsibilities towards Dr Kuppuswamy to ensure that this hearing is fair, and that the Tribunal has acted in good faith.

7. Mr Fish submitted that no decision was made nor was a view expressed and that the Tribunal did exactly what the *Guidance for Medical Practitioner Tribunals* [XXX] ('the Guidance') said should happen, which was to invite submissions from parties.

8. Mr Fish submitted that the Tribunal then determined not to XXX and that it would, of course, be entirely inappropriate, having made that decision, to then take into account in any way, whether in favour or adverse to Dr Kuppuswamy any issues in relation to XXX.

9. Mr Fish submitted that the Tribunal's enquiry was made in good faith and that no well-informed member of the public watching these proceedings would consider that that is supportive of bias, and the application to recuse should therefore be refused.

The Tribunal's Determination

10. The Tribunal considered that it had been entitled to raise the matter of XXX and seek submissions from parties given its observations, and that it had been appropriate and in line with the Guidance to do so.

11. The Tribunal had made it clear at the time of inviting observations from the parties that it was XXX when seeking submissions on whether to XXX, and for the reasons set out in its previous determination, had determined not to XXX, in line with the submissions of both Dr Kuppuswamy and the GMC.

12. The Tribunal considered that as no XXX has been ordered it would be entirely unfair for the Tribunal to then work on the basis of XXX which would rightly be characterised as speculative, and that it would not do so.

13. The Tribunal considered that it had a duty to raise the matter, particularly in so far as there could have been an impact of the fairness of proceedings to Dr Kuppuswamy and his ability to engage with these proceedings. With regards to how XXX may *"help"* Dr Kuppuswamy or make the proceedings *"fairer"*, this was in relation to the potential impact of XXX which may have impacted his ability to participate in proceedings. Had such XXX matters been present, receiving XXX evidence and further information could have assisted Dr Kuppuswamy and the Tribunal in identifying any XXX that could be made to support a fair hearing. This was explained to Dr Kuppuswamy at the time and the Tribunal reiterated that no decisions on the facts of the case had been made at all, nor were any decisions yet to be made influenced or prejudiced by the Tribunal seeking submissions from parties on the matter.

14. Following submissions and its determination not to XXX, the Tribunal was satisfied that it could put these matters out of its mind, as they were not relevant to the Allegation against Dr Kuppuswamy or his defence that such events simply did not occur.

15. In respect of Dr Kuppuswamy's submission that the Chair had endorsed a *"false narrative"* by stating that he had *"sought legal advice from six barristers."*, the Tribunal noted that during his application to adjourn to seek legal representation during Dr A's evidence, Dr Kuppuswamy had submitted that he had approached at least *"half a dozen"* law firms to have conversations and get opinions, and could produce evidence of such for the Tribunal.

16. The Tribunal determined that there had been no XXX or *"unfounded personal assertions"* as submitted by Dr Kuppuswamy, that the Tribunal had acted appropriately and that there would be no prejudice to him in light of its consideration of XXX. Further, it was satisfied that a reasonable, well-informed member of the public would not conclude that there was a real possibility of bias against Dr Kuppuswamy.

17. Accordingly, it determined to refuse the application to recuse itself.

ANNEX K – 30/09/2025

Application for Permanent Stay of Proceedings due to Abuse of Process

1. On 22 September 2025 Dr Kuppuswamy made an application for a permanent stay of proceedings on the grounds of abuse of process.

2. His application requested that, in the alternative, the Tribunal adjourn and refer to a fresh Tribunal with new legal safeguards namely a true public hearing with media and public support groups to ensure public scrutiny of the proceedings.

Submissions

Dr Kuppuswamy

3. Dr Kuppuswamy submitted that the GMC and this Tribunal, acting in concert, have deprived him of his Article 6 right to a fair hearing before an independent and impartial tribunal. He submitted that the cumulative abuses of process by the GMC during the investigation and referral, coupled with the Tribunal's conduct of the hearing, mean that these proceedings can no longer be considered fair, lawful, or legitimate.

4. Dr Kuppuswamy submitted that the GMC has demonstrated from the outset that the only way it could hope to make an adverse finding against him was through process abuse rather than evidence.

5. Dr Kuppuswamy submitted that even after the investigation abuses, the GMC required the assistance of a Tribunal that was neither independent nor impartial to sustain its case. He submitted that the Tribunal rejected his preliminary abuse of process application on invalid grounds, despite clear breaches. He submitted that the special counsel was observed colluding with GMC counsel and potentially coaching witnesses, and divulging elements of his defence strategy to the opposing side. He submitted that the cross-examination special counsel conducted was not in line with Article 6(3)(d) ECHR (the right to examine witnesses) and not in line with GMC/MPTS Rule 34(4) (the duty to ensure fairness in the admission and testing of evidence) and that this failure undermined the fairness of the hearing and the integrity of the Tribunal and judiciary itself. He submitted that despite this, the Tribunal insisted that cross-examination proceed with special counsel, denying him his consent and silencing his objections.

6. Dr Kuppuswamy submitted that special counsel did not conduct her cross-examination of Dr A as a professional or ethical advocate to enforce fairness in line with GMC /MPTS rule 34(4) but as if presenting GMC evidence-in-chief, failing to test any credibility or reliability. He submitted that he was legally gagged in open court, prohibited from objecting to unfair or untruthful questions and answers and that the Tribunal aligned with GMC counsel and special counsel to enforce this process, stripping him of his Article 6(3)(d) rights. He submitted that the result of this was the complainant's evidence was never properly tested.

7. Dr Kuppuswamy submitted that the GMC's investigation was corrupted by fabricated documents, delay, and suppression of safeguards, the Tribunal was not independent or impartial, aligning itself with GMC counsel and special counsel and that the cross-examination was tainted, conflicted, and not in his interests or justice or fairness, representing a complete absence of equality of arms. He submitted that he was silenced, deprived of any genuine opportunity to test evidence and that the cumulative effect was that these proceedings were no longer fair or lawful.

<u>On behalf of the GMC</u>

8. Mr Fish submitted that the application was, in reality, a rehash of an application that had already been refused and that the various points contained in Dr Kuppuswamy's new application have been all dealt with at various stages already by the Tribunal.

9. Mr Fish submitted that when Dr Kuppuswamy asked whether he would be able to object during the remainder of Dr A's evidence, the Tribunal responded appropriately, making it perfectly clear that was inappropriate for him to interrupt the cross-examination of Dr A and that was everyone's understanding. He submitted that the power that the Tribunal exercised in terms of the appointment of Ms McNeill as special counsel has already been visited a number of times. He submitted that Ms McNeill spent quite a lot of time with Dr Kuppuswamy discussing his case with him and taking instructions and that only stopped when he started to question her professionalism. He submitted that this only occurred midway through Dr A's evidence and that it was absolutely clear that Ms McNeill was actually doing her very best to help Dr Kuppuswamy whilst adhering to her professional and ethical obligations.

10. Mr Fish submitted that Dr Kuppuswamy would have every opportunity to identify inconsistencies within the evidence that he thinks the Tribunal should consider, if he wishes

to by giving evidence, and then even if he chooses not to give evidence, he will have the opportunity to make submissions.

11. Mr Fish submitted that an abuse of process argument is not the correct way to go about raising these sort of points and it is an exceptional remedy not applicable in the circumstances.

The Tribunal's Determination

12. The Tribunal, whilst acknowledging that the points raised by Dr Kuppuswamy had already been raised and considered, concluded that the basis for this application was the cumulative effect, and so this did constitute a new application which should be determined.

13. The Tribunal was of the opinion that the aspects relating to the GMC investigation had been appropriately considered and determined at the preliminary stage and did not amount to sufficient grounds to stay proceedings.

14. The matters raised in respect of special counsel Ms McNeill had also been previously determined and it had concluded that the cross-examination had been undertaken appropriately for those reasons. Similarly, it had previously rejected Dr Kuppuswamy's assertions that he had been *"gagged"* for the reasons previously set out.

15. The Tribunal rejected the submission of Dr Kuppuswamy that it had acted impartially or supported the GMC's case in its actions and decisions, and as previously set out, did not find sufficient grounds or evidence to uphold the claim that GMC and special counsel had been colluding or coordinating against Dr Kuppuswamy.

16. The Tribunal reiterated that Dr Kuppuswamy would have every opportunity to identify inconsistencies within the evidence and put his case on the reliability of the evidence and the weight, if any, to be attributed to it in due course, whether or not he chose to give evidence.

17. The Tribunal also reiterated its earlier finding that it was for Dr Kuppuswamy to arrange any attendance of the public or press that he wished during these public proceedings, and that it was not the role of the MPTS or the Tribunal to make such arrangements on his behalf.

18. The Tribunal concluded that the concerns raised by Dr Kuppuswamy, even when considered cumulatively, did not constitute an abuse of process, nor a grounds for recusal, and determined that the hearing should proceed.

ANNEX L – 30/09/2025

Determination on other matters raised by Dr Kuppuswamy

1. On 24 September 2025 Dr Kuppuswamy made a number of additional applications in writing, as set out below.

Application on bias, contradiction, and curtailed cross-examination of Dr C

2. Dr Kuppuswamy made an application to record and preserve his objection that his cross-examination of Dr C was unjustifiably curtailed at crucial points. He requested that the Tribunal:

- Acknowledge that his cross-examination of Dr C was unfairly curtailed, in breach of Article 6 ECHR.
- Re-open her cross-examination on these crucial issues, under full public and media scrutiny, to restore fairness and transparency.
- Alternatively, acknowledge that the unfairness has reached a level that is cruel, unacceptable, and incompatible with judicial integrity. In those circumstances, both the Tribunal and GMC counsel should consider recusal, as continuing in their present roles risks an irreparable affront to fairness, impartiality, and the integrity of these proceedings.
- Alternatively, record in its determination that:
  - Dr C's evidence is unsafe, must be treated with extreme caution, and given reduced weight;
  - On the facts, Dr C was the orchestrator of the allegations, the referrals, and the termination of my contract, in retaliation for whistleblowing;
  - The GMC has acted contrary to its statutory objectives by protecting a conflicted witness at the expense of patient safety and fairness.

Submissions

Dr Kuppuswamy

3. Dr Kuppuswamy submitted that the Legally Qualified Chair prevented him from exposing Dr C's multiple conflicts of interest, her orchestration of events, and contradictions in her evidence, and that it also demonstrated actual bias on the part of the Chair, who was seen to protect Dr C from scrutiny and to accept her denials at face value despite documentary evidence to the contrary.

4. Dr Kuppuswamy submitted that Dr C simultaneously assumed multiple, irreconcilable roles at Withybush Hospital, that these roles place her not as an independent or impartial witness, but as the orchestrator of the complaints and of the termination of his contract. He submitted that Dr C was instrumental in referring him to multiple external bodies and that this pattern demonstrates that Dr C was not acting as a neutral clinical lead, but as a determined complainant and orchestrator, pursuing him across every regulatory and safeguarding forum available, in retaliation for his whistleblowing.

5. Dr Kuppuswamy submitted that he was also prevented from questioning Dr C about her failures to safeguard patients under her responsibility as Clinical Lead and that when he attempted to question Dr C about her role in the termination decision, the Legally Qualified Chair intervened to protect her, citing the below interactions and excerpts of the transcript:

- When I attempted to question Dr C about her role in the termination decision, the legally qualified Chair intervened to protect her.

  The Chair stated:

  "Just before you answer that, Dr C, can I just clarify, is this a decision that you were involved in making – that is the termination decision?"

  To which Dr C replied:

  "The actual termination decision was not a decision made by myself."

  The Chair then continued:

  "I am keen that witnesses not be invited to speculate and that you're asking questions

that can be answered by, in this case Dr C, so I think on that we maybe need to move on. I think the minutiae as to the termination decision isn't going to assist us any further than what we already have."

6. Dr Kuppuswamy submitted that this sequence shows more than passive interruption and that the Chair actively prompted and protected the witness, accepted her denial, and then barred him from pressing further. He submitted that the Chair demonstrated actual bias, not just apparent bias, by: actively prompting Dr C with a denial and accepting it without testing credibility; blocking him from putting forward clear documentary contradictions; blocking questioning on patient safety concerns, despite his evidence being supported by original emails; and repeatedly intervening in a way that supported the GMC's witnesses and undermined his right to a fair hearing.

On behalf of the GMC

7. Mr Fish submitted that Dr Kuppuswamy is not accurate in stating that he has been prevented from exploring his case with Dr C and that it really has to be put on the record the lengths that have been gone to in order to ensure that Dr Kuppuswamy has been able to do that. He submitted that Dr C started her evidence virtually, that there was some delay to ensure that all of the documents that Dr Kuppuswamy wished to have before the Tribunal were available, that Dr Kuppuswamy then cross-examined Dr C for at least half a day, and then Dr C came from Wales to attend and conclude her evidence in person following a request by Dr Kuppuswamy.

8. Mr Fish submitted that on a number of occasions, the Tribunal asked Dr Kuppuswamy whether he had explored everything that he wished to explore with Dr C, and that whilst Mr Fish had intervened to the extent that he said that Dr Kuppuswamy should be required to put his case to Dr C, to suggest that Dr Kuppuswamy has been prevented from cross-examining and exploring his case with Dr C is simply inaccurate.

9. Mr Fish submitted that the Tribunal has intervened on occasion to curtail irrelevant questioning and repeated questioning, and that it remains important to bear in mind that when dealing with the points that Dr Kuppuswamy is raising, this is not a public inquiry and concerns about how Dr Kuppuswamy's complaints were handled within Withybush Hospital are only relevant insofar as they have been advanced as a motive for Dr C to contrive and coordinate false allegations against him.

10. Mr Fish submitted that Dr Kuppuswamy needs to understand that this Tribunal has not been convened to conduct a public enquiry into how patient safety concerns were dealt with in Withybush Hospital, or how they have been handled by the GMC and how the PIC procedure was implemented. He submitted that this case is about whether Dr A and Dr B are telling the truth, about what they say Dr Kuppuswamy did, and those are the issues which Dr Kuppuswamy perhaps should focus his attention upon.

The Tribunal's Determination

11. The Tribunal considered that the preliminary application to stay proceedings made by Dr Kuppuswamy, which had been refused, already covered the whistleblowing and patient safety aspects of his arguments, and that the role of this Tribunal was to consider the Allegation before it as it related to Dr Kuppuswamy's alleged misconduct towards Dr A and Dr B.

12. The Tribunal reiterated that Dr Kuppuswamy would have the opportunity to put his case and make submissions on the weight, if any, to be attributed to the evidence of all witnesses, including Dr C.

13. The Tribunal also considered the submissions of Dr Kuppuswamy that the Legally Qualified Chair had, in effect, worked on behalf of the GMC to prevent Dr Kuppuswamy fairly cross-examining Dr C. In doing so, it considered the full transcript extract cited by Dr Kuppuswamy, as set out below.

> *DR KUPPUSWAMY:*
>
> …
>
> *Q So it gives rise to two questions, doctor: one, if the validity of the allegations were not done at all, so it was just a hearsay, why was my contract being terminated, and why was this escalated?*
> *A So the concern was sufficient that actually we were in a position where when we have any agency doctor, all agency employment is temporary and can be – the nature of the contract is that actually if we don't require that person's employment, their employment would be ceased, so it would be quite natural for us to have a turnover of doctors. So there was sufficient concern and in view of the fact the doctors who raised allegations and yourself were* [XXX]*, and there was concern raised*

by multiple people, that was the reason that brought the concerns to the management and so the decision about the timing of termination was via them.

DR KUPPUSWAMY: Honourable Chair, I mean I couldn't get – I couldn't understand what was being said. Does the Tribunal get – I mean, were you happy to enlighten me on that response?

THE CHAIR: No. If you don't understand what Dr C is saying, then just be clear to her about what element of what she said you don't understand, and I am sure she can put it in different words. I am very keen not to speak on behalf of a witness.

DR KUPPUSWAMY: Okay. Sorry, Dr C, you saying – were you saying I asked you, you told me to begin with the allegations were not vetted, were not tested, were not validated yet it was escalated and then resulted in termination. I asked you that question and you said, "Although not tested" – this is my understanding, correct me if I am wrong, "Although it's not tested, but it's just the number of them. It may not be the quality, but it's just the quantity of them, and then you were [XXX] *and. therefore, we decided to terminate you." Is that what you're saying, doctor?*
A I am saying that for the number of factors, that was the reason that the investigation was going to be ---

Q What were the factors?
A The ---

THE CHAIR: Just before you answer that, Dr C, can I just clarify, is this a decision that you were involved in making – that is the termination decision?

THE WITNESS: The actual termination decision was not a decision made by myself. As I say, I was not aware that – before you raised that just now I was under the understanding that the decision was made on the 22nd, so that was my understanding.

THE CHAIR: All right. Dr Kuppuswamy, I am keen that witnesses not be invited to speculate and that you're asking questions that can be answered by, in this case Dr C, so I think on that we maybe need to move on. I think the minutiae as to the termination decision isn't going to assist us any further than what we already have.

DR KUPPUSWAMY: Ma'am, it's not about the timing of the termination, because there is email documentation clear in the folder which says the time of – and it also challenges why, or how, Dr Kuppuswamy became aware of this termination, because it should have been 22nd, how did he know that was done ---.

THE CHAIR: I don't think Dr C is going to ---

DR KUPPUSWAMY: Yes, so we don't need that.

THE CHAIR: That's fine. Then let's move on.

DR KUPPUSWAMY: I don't – I'm not exploring that. I'm not exploring that. What I'm exploring is when Dr C, in her own words, admits that the allegations were not vetted, what then – so the allegations came to her and [Dr I]. It didn't reach the management on its own, they were escalated to management by Dr C and Dr I, respectfully. So when the allegations are not vetted, why did it cross the threshold and get to the higher level?

THE CHAIR: I think what's being said is that the investigation came next.

DR KUPPUSWAMY: The investigation – well, let's ask her. The investigation was not next, at all. We could ask her, ma'am.

THE CHAIR: Yes, do. Explore that with Dr C. That's fine.

…

14. The Tribunal was satisfied that, as demonstrated by the fuller extract from the transcript, the Legally Qualified Chair had been appropriately managing the cross-examination of Dr C, balancing providing appropriate assistance to Dr Kuppuswamy in putting his questions to Dr C in a clear and direct fashion, ensuring that questions were relevant and not repeated and that matters were relevant to the Tribunal's consideration of the facts.

15. This was not the only time during Dr C's evidence that Dr Kuppuswamy's employment termination was explored. Dr Kuppuswamy has been reminded that whilst he is entitled to put his case and ask questions he is not permitted to do so repeatedly.

16. It would be inappropriate for these regulatory proceedings to stray too far from their key focus. This is so, even taking into consideration that Dr Kuppuswamy is self-representing thus expected to have less experience in judging the scope of his questioning. The clinical status of individual patients, related to the whistleblowing matters is a satellite issue of no relevance to this Tribunal. In reiterating this point Dr Kuppuswamy is reminded that the GMC have always accepted that he did raise a whistleblowing concern.

17. The Tribunal determined that there was no bias against Dr Kuppuswamy in the approach of the Legally Qualified Chair and that his outstanding concerns relating to the reliability and apparent contradictions in Dr C's evidence can be dealt with by way of submissions. The Tribunal noted that no evidence has been accepted or weighed at this stage, and that Dr Kuppuswamy's application appeared to demonstrate a lack of familiarity with the process, which the Tribunal had tried to explain to him numerous times during the proceedings.

18. Accordingly, the Tribunal determined to refuse Dr Kuppuswamy's application.

Application for permanent stay of proceedings due to an abuse of process on grounds of actual bias

Submissions

Dr Kuppuswamy

19. Dr Kuppuswamy applied for a permanent stay of proceedings on the basis that the fairness of this hearing had been irreparably compromised by actual bias on the part of the Legally Qualified Chair. He submitted that the Chair's conduct in relation to the cross-examination of Dr C demonstrated partiality and denial of his Article 6 ECHR rights, and that the chair protected someone who was lying under oath to the Tribunal and prevented him from advancing questions to test her on her lies.

20. Dr Kuppuswamy submitted that during his cross-examination, the Chair actively intervened to prompt her denial of involvement in the termination decision: accepted her denial without scrutiny: and blocked him from testing this denial, citing the same quotes as set out in his previous application above.

21. Dr Kuppuswamy submitted that Dr C's oral evidence contradicted her GMC Statement

and Employment Tribunal Statement, which contained direct admissions that she was centrally involved in the termination and coordinated complainant statements.

22. Dr Kuppuswamy submitted that he was seeking a permanent stay of proceedings on the basis of abuse of process arising from actual bias, or, alternatively, the recusal of the entire Tribunal, including all three members, together with GMC counsel, on the grounds that the Chair's interventions and the silence of the other tribunal members means they are equally culpable in denying fairness.

On behalf of the GMC

23. Mr Fish submitted that he had already addressed the Tribunal on the law with regards to recusal and stay of proceedings and abuse of process, and that there is once again an allegation of bias. He submitted that legal advice has already been provided in relation to both of those matters and he had nothing more to add on it.

24. Mr Fish submitted that in relation to Dr C and the alternative relief Dr Kuppuswamy was seeking, namely a stay of proceedings or recusal, these are matters that the Tribunal had in fact already dealt with, and so it may be that the appropriate, fair thing to do is to not, in fact, adjudicate on that.

25. Mr Fish submitted that there was a ruling made as a preliminary issue on these matters and that in reality, this represents a repeat of points that have already made.

26. Mr Fish submitted that Dr Kuppuswamy has submitted that he seeks the recusal of himself as GMC counsel but that he was not sure that the tribunal have any power to do anything about that, adding that he of course has to comply with his own professional obligations, and that just like doctors, barristers also have a code of conduct which they have to comply with and that he certainly had.

The Tribunal's decision

27. The Tribunal considered that it had responded to Dr Kuppuswamy's allegations of bias in respect of his previous application, above, and provided reasons for its decision, along with its decision in respect of apparent contradictions in the evidence of Dr C.

28. The Tribunal considered that during the cross-examination of Dr C, Dr Kuppuswamy found it difficult to move onto a new question when a) he did not receive an answer he

agreed with; b) he received an answer he did not seem to expect; c) he was asked to move on from an irrelevant topic. Dr Kuppuswamy developed a pattern of moving on from a point temporarily only to return to it later thus the Chair had appropriately intervened.

29. The Tribunal does have an active duty to make sure that cross-examination is fair and appropriate. Further, it is not a good use of Tribunal time to allow exploration of matters irrelevant to the determination the Tribunal is tasked with. Plainly, there are matters outside of this Allegation which are important to Dr Kuppuswamy and which he is disappointed not to have been able to get to the bottom of, however, this hearing is neither the time or the place to permit this type of interrogation. The Tribunal reject the submission that any action or omission of any Tribunal members amounted to assisting the GMC's case or unfairly limiting Dr Kuppuswamy's defence.

30. The Tribunal heard Dr Kuppuswamy put his case to Dr C via questioning that she orchestrated Dr A and Dr B's complaints against him to protect Dr I and to protect herself as retaliation against Dr Kuppuswamy due to his whistleblowing. Dr C was given the opportunity to deny these accusations. The Tribunal reiterated that none of the evidence had been accepted or weighed at this stage.

31. The Tribunal also reiterated that it was not relevant to Dr Kuppuswamy's case to more thoroughly investigate any failings of Dr I, his capabilities or the internal escalation and management of the concerns raised by Dr Kuppuswamy.

32. Accordingly, the Tribunal determined that there was no bias against Dr Kuppuswamy nor grounds to stay proceedings or recuse itself, and refused the application.

Application to admit further evidence

33. Dr Kuppuswamy made an application to admit further evidence, pursuant to Rule 34(1) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).

34. This evidence was written evidence submitted by St George Street Strategic Consultancy to the Parliamentary Committee on Complaints and Raising Concerns (2014), officially published as part of the Committee's evidence record (CRC0063).

Submissions

Dr Kuppuswamy

35. Dr Kuppuswamy submitted that this Parliamentary evidence underlines that his case is not an isolated grievance but part of a wider pattern of GMC abuse against whistleblowers, contrary to public interest and fairness and directly strengthens his submission that these proceedings are an abuse of process and should be stayed. He submitted that this case fits into a well-documented pattern. Parliamentary Committees have previously found that GMC and MPTS processes have been used in alignment with NHS Trusts to retaliate against whistleblowers.

On behalf of the GMC

36. Mr Fish submitted that he was not clear how the proposed documents related to the case or how they would assist the Tribunal to resolve any of the issues that it was required to. He submitted that the burden was on Dr Kuppuswamy to satisfy the Tribunal that it was relevant to be shared with the Tribunal, but that he was not sure exactly what the materials provided were.

The Tribunal's Determination

37. The Tribunal reminded itself of Rule 34(1) of the Rules which states that:

> *'34(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.'*

38. The Tribunal considered that Dr Kuppuswamy was seeking to submit evidence originally submitted to a Parliamentary Committee on Complaints and Raising Concerns held in 2014. It noted that this appeared to be evidence submitted to the Committee and did not appear to represent any formal findings of the Committee.

39. Dr Kuppuswamy's position was that this was evidence of historic collusion between the NHS and the GMC and that they made retaliatory referrals about whistleblowers.

40. The Tribunal considered that regardless of the source and historic nature of the evidence, it being from a general consultation 11 years ago, it was not relevant to its

considerations. The document was not specific to this case at all and would not assist the Tribunal in determining the facts of this case.

41. Dr Kuppuswamy has already made it clear that his case is that Dr C orchestrated the complaints against him as a retaliation for his whistleblowing, which the Tribunal would consider in due course, but this document would not assist it in reaching that determination.

42. The Tribunal determined that as the evidence was not relevant to the case it would be unfair to admit, and refused the application.

Further application for permanent stay of proceedings on the grounds of an abuse of process

43. On 25 September 2025, Dr Kuppuswamy made another application to stay proceedings on the grounds of an abuse of process.

Submissions

Dr Kuppuswamy

44. Dr Kuppuswamy submitted that a conflicted GMC witness, Dr C, simultaneously assumed multiple irreconcilable roles at Withybush Hospital. He submitted that these proceedings are therefore irredeemably tainted and that to continue them would be an abuse of process and a breach of the Registrant's Article 6 fundamental human right to a fair hearing before an independent and impartial tribunal.

45. Dr Kuppuswamy submitted that Dr A's contaminated statement to MEDACS was not her independent account and that in her GMC witness statement, Dr A admitted that Dr C drafted or materially assisted in preparing her MEDACS statement. He submitted that this is therefore an established fact: that Dr A's first statement was contaminated at source by a conflicted GMC witness.

46. Dr Kuppuswamy submitted that he was seeking a permanent stay of proceedings, as the GMC's case rests on tainted and unreliable complainant evidence, orchestrated and drafted in part by a conflicted GMC witness. He submitted that, alternatively, he was seeking the exclusion of Dr A's statements and any derivative evidence with recognition that without this tainted evidence, the GMC's case cannot proceed safely.

On behalf of the GMC

47. Mr Fish submitted that the points raised by Dr Kuppuswamy were matters for submissions and points that he could quite properly ask the Tribunal to consider when deciding whether the allegations are proven. He submitted that an abuse of process application is not the right way to make those types of points.

48. Mr Fish submitted that the points raised could form the basis of a submission of insufficient evidence, but that the application for a stay of proceedings on the grounds he has advanced should not be granted.

The Tribunal's Determination

49. The Tribunal was of the opinion that the grounds on which Dr Kuppuswamy had based this application had already been considered and determined, with reasons set out in writing in previous determinations.

50. The Tribunal concluded that as there were no new grounds on which this application was based, it was not required or appropriate for it to reach a further determination on these matters.

ANNEX M – 26/09/2025

Application to Adjourn

1. This determination will be read in private. However, a redacted version will be published at the close of the hearing.

2. On 25 September 2025, Dr Kuppuswamy made an application to adjourn proceedings, pursuant to Rule 29(2) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).

Submissions

Dr Kuppuswamy

3. Dr Kuppuswamy submitted that he was requesting a short adjournment of proceedings to allow access to transcripts of witness evidence, that were essential for the preparation of his response to the GMC's case.

4. Dr Kuppuswamy submitted that he has XXX, which is known to the Tribunal and has previously been accepted as requiring XXX. He submitted that on that basis, he had already been provided with transcripts of Dr C's evidence and that the same principle must apply to all witness cross-examinations in order to preserve fairness.

5. Dr Kuppuswamy submitted that these transcripts are essential because they record the contradictions, admissions, and credibility issues revealed under questioning, which he must rely on to demonstrate the unreliability of the GMC's case. He submitted that without them, he could not prepare a fair and complete "No Case to Answer" submission or, if necessary, his closing submissions.

6. He informed the Tribunal that he had made the request to the MPTS transcript team via the online request form and was awaiting a response.

On behalf of the GMC

7. On behalf of the GMC, Mr Fish, counsel, submitted that proceedings should not be delayed and the application to adjourn should be refused. He submitted that with the exception of what appears to have been a slight misunderstanding about one part of Dr C's evidence, the issue with XXX has certainly not been obvious to him, which he anticipated was consistent with the Tribunal's own experience.

8. Mr Fish submitted that Dr Kuppuswamy had not raised any issues with XXX before or during these proceedings, save for the discrete issue with Dr C which has been managed appropriately.

9. Mr Fish submitted that it was not clear why Dr Kuppuswamy required the transcripts in support of giving evidence or a No Case to Answer application. He submitted that it was perfectly clear from the various documents and applications made by Dr Kuppuswamy that he has actually been able to draw to the Tribunal's attention to questions, answers and

inconsistencies as he perceives them, so it appears as though he has been listening quite closely and is well able to identify what he considers to be weaknesses within the evidence.

The Tribunal's Decision

10. Rule 29(2) states:

> *29.*
>
> *…*
>
> *(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.*

11. Having heard submissions on the matter from both parties, the Tribunal initially determined to wait until the following day for the outcome of Dr Kuppuswamy's application for further transcripts before reaching its decision.

12. On 26 September 2025, the Tribunal received an email from Dr Kuppuswamy stating that he was unable to attend proceedings that day, either in-person or virtually, due to XXX.

13. The Tribunal considered that, as it had heard oral submissions from both parties, and additionally submissions in writing from Dr Kuppuswamy, and had received confirmation of the outcome of his latest transcript request, it would be fair and appropriate to proceed in reaching its determination on the adjournment application in his absence.

14. The Tribunal noted that the MPTS Transcript Team had agreed to give Dr Kuppuswamy the transcripts of the virtual hearing days prior to Dr C's evidence. During Dr C's evidence, Dr Kuppuswamy had raised a single inconsistency in what he noted Dr C as saying compared to what Mr Fish and the Tribunal had noted. As such he requested Dr C be called to give the rest of her evidence in-person, citing XXX. The Tribunal had agreed to this request and remained in-person from that point.

15. The Tribunal noted that the MPTS Transcript Team was not providing the transcripts of Dr A or Dr B's evidence, as this evidence took place in SJB at person, following the XXX

made by the Tribunal (XXX to move the rest of the hearing to St. James' Building). In response to a query from the Legally Qualified Chair, Dr Kuppuswamy explicitly stated that he had not experienced any difficulty XXX following the move to an in-person hearing and that he would have alerted the LQC if that were the case.

16. The MPTS Transcript Team are a separate team to the Tribunal, and the Tribunal does not have any role in requesting, approving or providing transcripts.

17. The Tribunal considered that Dr Kuppuswamy had not raised any concerns about XXX being an issue, save for a discrete matter in relation to Dr C's cross-examination. Additionally, Dr Kuppuswamy had requested the hearing, which was originally listed to be entirely in-person, to go virtual from day two, save for the witness evidence of key witnesses Dr A and Dr B.

18. Following Dr C's evidence, Dr Kuppuswamy again requested for the hearing to proceed virtually and that he would be able to adequately participate in a remote hearing. Rather than risk any future issues arising during a remote hearing, the Tribunal ordered that the remaining proceedings take place in St. James' Building.

19. The Tribunal also bore in mind the numerous and detailed applications and supporting documentation provided by Dr Kuppuswamy, which demonstrated a detailed and accurate understanding and recollection of the evidence heard throughout proceedings, including what he identified as various discrepancies and cross-referenced contradictions. Through numerous documents, including three separate abuse of process arguments and multiple applications to exclude the evidence of Dr A and Dr B Dr Kuppuswamy has referenced the oral testimony of both virtual and in-person evidence alongside the written evidence.

20. Dr Kuppuswamy raised for the first time that he "might" not have XXX the oral, virtual, evidence of Dr F, Mr D and/or Dr E for the first time on the 25 September 2025. Dr Kuppuswamy had not made an application for transcripts of their evidence before that date either.

21. The Tribunal was not satisfied that there was a genuine XXX rationale for Dr Kuppuswamy's request for an adjournment in light of the lack of XXX evidence to support a XXX creating a barrier to Dr Kuppuswamy meaningfully engaging with the hearing and the reasons highlighted above.

22. The Tribunal understood that the MPTS Transcript Team are willing to supply Dr Kuppuswamy with the transcripts of evidence of Dr F, Mr D and/or Dr E and his original preliminary abuse of process argument only. Those transcripts relate to corroborative witnesses rather than the key witnesses, Dr A and Dr B. The Tribunal did not accept Dr Kuppuswamy's submission that the transcripts of these witnesses were necessary or essential for Dr Kuppuswamy to either make an application of no case to answer, give evidence, or make submissions on the facts, particularly given that he appeared to already be acutely alive to potential inconsistencies and features of their evidence which he had made multiple abuse of process applications and exclusion of evidence applications in respect of.

23. Accordingly, the Tribunal determined to refuse the application to adjourn, and that the hearing should proceed.

24. It directed that Dr Kuppuswamy should be ready to attend in-person on Tuesday 30 September 2025 at 9:30 to proceed with the case, and if he intends to make a half-time application of no case to answer under Rule17(2)(g), should be ready to do so at that time.

25. If Dr Kuppuswamy is unable to attend any future date of this hearing XXX he should provide XXX evidence. The Tribunal remind Dr Kuppuswamy that it would require XXX

26. A copy of this written determination was sent to Dr Kuppuswamy on Friday 26 September 2025 to the email address he has been communicating with the GMC and MPTS with in relation to and during these proceedings.

ANNEX N – 30/09/2025

Application to Adjourn

1. This determination will be read in private. However, a redacted version will be published at the close of the hearing.

2. On Tuesday 30 September 2025, Dr Kuppuswamy made an application to adjourn proceedings, pursuant to Rule 29(2) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).

Submissions

Dr Kuppuswamy

3. Dr Kuppuswamy submitted that he was requesting a short adjournment until midday the following day in order to prepare for a half-time application of no case to answer he intended to make.

4. Dr Kuppuswamy submitted that he had tried his best to prepare but had only been able to cover about 60 to 65% of his preparation and that he should be in the best position to present his case adequately and properly by that time. He submitted that he had lost time to prepare over the weekend as he had been XXX on Friday, and so had only had the previous day to prepare so far.

5. Dr Kuppuswamy submitted that it was taking him a lot of time to bring in the supporting evidence from his notes and the witness statements including policy, guidance and law. He submitted that this extra time was necessary for him to be able to present his case fairly as he was unrepresented and he was not on an equal footing with the GMC.

On behalf of the GMC

6. On behalf of the GMC, Mr Fish, counsel, submitted that the GMC was keen to make progress and make as much use of the remaining time as possible. He submitted that the Tribunal had already made considerable allowances for Dr Kuppuswamy.

7. Mr Fish submitted that in reality Dr Kuppuswamy has not only had one day to prepare his defence case, but that he has been aware of the allegations he will be required to meet for a very, very long time. He submitted that the evidence against Dr Kuppuswamy has not materially changed and that losing a further day is unacceptable, although the Tribunal may wish to grant Dr Kuppuswamy some further time this morning.

The Tribunal's Decision

8. Rule 29(2) states:

29.

...

> *(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.*

9. The Tribunal considered that Dr Kuppuswamy had already had sufficient time to prepare his no case to answer application, had been aware of the case against him and much of the evidence for some time and had been dealing with various evidential issues throughout these proceedings.

10. The Tribunal concluded that it would not be proportionate or appropriate to allow Dr Kuppuswamy a further day and a half of preparation time and that it was important to manage the remaining available time to progress proceedings.

11. Accordingly, it determined to refuse the application to adjourn, but to allow Dr Kuppuswamy a short further period to prepare before making his application at 11:30am.

12. The Tribunal also determined for the Legally Qualified Chair to provide legal advice on an application of no case to answer under Rule 17(2)(g) of the Rules before hearing the application as this might assist Dr Kuppuswamy.

ANNEX O – 03/10/2025

Application under Rule 17(2)(g)

1. Following the conclusion of the GMC case, on 30 September 2025, Dr Kuppuswamy made a submission of no case to answer, pursuant to Rule 17(2)(g) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules).which states:

> *'the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld'*

Submissions

Dr Kuppuswamy

2. Dr Kuppuswamy submitted that there was no case to answer on the entirety of GMC allegations.

3. Dr Kuppuswamy submitted that the Tribunal must consider whether there is evidence, taken at its highest that could properly support a finding of misconduct and in this case the evidence is contradictory, inconsistent and corroborated, or inherently unreliable, and therefore there is no case to answer.

4. In respect of paragraph two of the Allegation, Dr Kuppuswamy submitted that the GMC rely on two phrases "perfect sweetheart" ['Thanks [Dr A] you are a perfect sweetheart.'] and "you can dance with me any time" ['[Dr A] I be there. If you dance with me…']. He submitted that Dr A had responded to these messages with positive images, laughter and future invitations, that there was no reference in her Medacs or police statements about these messages and that it was only, two years later, in her GMC witness statement that she retrospectively described them as inappropriate. He submitted that this contemporaneous behaviour speaks louder than retrospective reconstruction and that there is simply no evidence that these friendly exchanges amount to misconduct.

5. Dr Kuppuswamy submitted that he had set out in his written submissions/supporting documentation important and crucial points that the Tribunal should consider ruling out a finding of misconduct on completely misrepresented, tenuous and inconsistent allegations. He submitted that contradictions in the evidence supporting this are apparent as each statement grows in detail over time, adding that Dr H, who was present at the party, denies seeing any such incident occur. He submitted that the evidence therefore amounts to multiple inconsistent versions, unsupported by independent witnesses.

6. Dr Kuppuswamy submitted that in respect of paragraph four of the Allegation, this was absent from contemporaneous accounts provided by Dr A and was only raised in 2023. He submitted that Dr A's account is inconsistent with the policy in place at the time as the patient in question was elderly and on an end-of-life pathway and so the diagnosis was already made and the death was expected, so therefore the was no reason for this to be passed to the Coroner. He submitted that in light of the inconsistencies and contradictions undermining Dr A's evidence on this, the allegation cannot stand.

7. In respect of paragraph five of the Allegation, Dr Kuppuswamy submitted that Dr B provided different accounts of which thigh he allegedly touched with different descriptions during her oral evidence under oath. He submitted that the independent witnesses supporting this allegation could not be relied upon as Dr E could not recollect what had happened and he admitted possible confabulation, Dr G gave a different version, Dr H saw no such conduct and Dr B's boyfriend provided yet another version of events. He submitted that four individuals relied upon by the GMC have provided five different versions of events which does not amount to corroboration, but to confusion. He submitted that a Tribunal cannot make findings of misconduct on such contradictory evidence.

8. Dr Kuppuswamy submitted that the GMC's case, taken at its highest, is riddled with contradictions, omissions, and retrospective embellishments. He submitted that key allegations appear only years later, that independent GMC witness Dr H consistently denies seeing misconduct and that the complainants' accounts are mutually inconsistent. He submitted that, applying the Galbraith test, no reasonable Tribunal, properly directed, could convict on this evidence and, accordingly, the Tribunal is invited to find there is no case to answer on all charges.

On behalf of the GMC

9. On behalf of the GMC, Mr Fish, counsel, submitted that almost all of Dr Kuppuswamy's submissions go to an overall assessment of the facts, rather than a submission of no case to answer, that he has made submissions on how he would invite the Tribunal to view certain facts and has strayed, perhaps on occasion, into trying to give evidence.

10. Mr Fish submitted Dr Kuppuswamy has on multiple occasions used the word *"confabulation"*, which a Google search suggests refers to a form of memory disorder, and that there is no evidence to support that conclusion. He submitted that Dr Kuppuswamy has alleged that Dr A has been shown to be dishonest and seems to suggest that she has told provable lies, which is not accepted by the GMC.

11. Mr Fish submitted that has been a slight muddying of the waters in terms of the status of Dr H and that contrary to what Dr Kuppuswamy submitted that there was some attempt to try and hide Dr H, the GMC actually arranged for Dr H to be before the Tribunal to give evidence and that although she gave evidence whilst the GMC case was still open, it could not have been made clearer that she was not a GMC witness. He submitted that Dr Kuppuswamy has unfortunately overstated on multiple occasions what Dr H's evidence

ultimately can tell the Tribunal, as if Dr H did not see that anything had occurred that does not prove that these things never happened.

12. Mr Fish submitted that it was also asserted that Dr E admitted confabulation, whereas the record of Mr Fish was that Dr E acknowledged that his memory in 2025 was not great about what happened as it would have been at the time, but gave clear and consistent evidence in 2021 that he saw Dr Kuppuswamy touch Dr B's leg.

13. Mr Fish submitted that in respect of paragraphs two to five of the Allegation, there is evidence upon which a Tribunal could find these allegations proven. He submitted that assessing weaknesses, weighing up inconsistencies, and motives to fabricate are all part of the fact-finding process and that this is not one of those cases where evidence has been shown to be so unreliable, inconsistent, vague or weak that a submission of no case to answer should be upheld.

14. Mr Fish submitted that in respect of paragraph six of the Allegation, the GMC's case, taken at its highest would allow for factual findings in relation to paragraphs two to five which would support a finding of sexual harassment, abuse of position and sexual motivation.

15. Mr Fish submitted that the issues raised by Dr Kuppuswamy in his submissions will all depend on what findings the Tribunal makes when weighing up the inconsistencies in the evidence that exist, as asserted by Dr Kuppuswamy, if the Tribunal finds that those inconsistencies exist at all.

The Tribunal's Decision

16. The Tribunal reminded itself that, at this stage, its purpose was not to make findings of fact but to determine whether sufficient evidence, taken at its highest, had been presented by the GMC such that a properly directed Tribunal, could find the relevant paragraphs proved to the civil standard. The Tribunal considered the submissions made by both Dr Kuppuswamy and Mr Fish. It also took account of all the evidence presented to it.

17. The Tribunal had particular regard to the case of *R v Galbraith* [1981] 1 WLR 1039, which sets out the test for the Tribunal to apply:

> *(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.*

(2) The difficulty arises where there is some evidence but it is of a tenuous character; for example, because of inherent weakness or vagueness, or because it is inconsistent with other evidence.

(a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where, however, the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury. [...] There will always [...] be borderline cases. They can safely be left to the discretion of the judge.'

The Tribunal's Determination

18. The Tribunal first considered the first test as set out in *R v Galbraith:*

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

19. The Tribunal considered that there was evidence provided by the GMC in support of each charge of the Allegation, and that this case therefore did not meet the criteria of no case to answer on that basis.

20. The Tribunal then went on to consider the second test set out in *R v Galbraith*, set out above.

21. The Tribunal first considered the factual allegations set out at paragraphs two to five of the Allegation. It was of the opinion that whilst there did appear to be inconsistencies and contradictions in the evidence which could potentially undermine the GMC's case, these inconsistencies and contradictions were not such that no reasonable Tribunal could, when taking the evidence at its highest, find the facts proven to a civil standard, namely the balance of probabilites.

22. The Tribunal considered that some of the sub-paragraphs of the Allegation at paragraphs two to five were inherently subjective propositions, such as whether Dr Kuppuswamy *"smirked"* at Dr A or *"stared at the group of female work colleagues"* and whether the messages alone could be deemed appropriate or inappropriate. Whilst some of the various terms and perceptions set out in the Allegation were open to subjective interpretation, the Tribunal concluded that a Tribunal could, taking the evidence at its highest and considering the context, find these allegations proved, and that therefore there was a case to answer in this respect.

23. The Tribunal concluded that the inconsistencies and contradictions identified by Dr Kuppuswamy were matters to be considered and appropriately weighed at the facts stage and were not sufficient to meet the threshold of no case to answer.

24. The Tribunal then went on to consider paragraph six of the Allegation and whether there was sufficient evidence that, taken at its highest, could lead to a finding that the actions set out at paragraphs two to five of the Allegations amounted to sexual harassment, were sexually motivated and were an abuse of position.

25. The Tribunal determined that, given its finding that a positive finding could be properly made in respect of paragraphs two to five of the Allegation, a Tribunal could, were it to find those paragraphs proved, go on to appropriately consider paragraph six proved.

26. The Tribunal determined that there was therefore a case to answer and refused the application.

ANNEX P – 03/10/2025

Application for Permanent Stay of Proceedings due to Abuse of Process

1. On 3 October 2025 Dr Kuppuswamy made a further application for a permanent stay of proceedings on the grounds of abuse of process.

Submissions

Dr Kuppuswamy

2. Dr Kuppuswamy submitted that he was applying for a permanent stay of proceedings on the grounds of cumulative abuse of process. He submitted that the combined effect of conflicts, tainted evidence, delay, and procedural unfairness had rendered these proceedings irretrievably unfair.

3. Dr Kuppuswamy submitted that the conflict of interest of Dr C had led to an irreconcilable conflict, contaminating the evidential base and undermining fairness. He submitted that the failure to conduct an even-handed investigation ignoring exculpatory whistleblowing evidence while pursuing allegations orchestrated by a conflicted manager breached the GMC's duty of impartiality.

4. Dr Kuppuswamy submitted that there was witness contamination and inappropriate statement drafting, that tainted accounts are unsafe and inadmissible and that GMC guidance requires independence of witness statements. He submitted that there was mishandling of the evidence of Dr H, who under oath gave supportive oral evidence stating that she did not see any of the alleged misconduct. He submitted that the GMC did not test that evidence when they had the opportunity but instead, they later sought to reinterpret her words to their own convenience that 'did not see' meant she might have missed it.

5. Dr Kuppuswamy submitted that there was unreliable and contradictory evidence, that the integrity of these proceedings has been fatally compromised and that the Tribunal should order a permanent stay of proceedings; or alternatively exclude the tainted and unreliable evidence, which would leave no case to answer.

On behalf of the GMC

6. Mr Fish submitted that the point raised by Dr Kuppuswamy in respect of Dr H perhaps had not been formally adjudicated and so the Tribunal may consider it appropriate to make a determination on that aspect.

7. Mr Fish submitted that Dr H was actually spoken to during the police investigation, and that the Tribunal has her witness statement to them as well as her statement submitted on behalf of Dr Kuppuswamy. He submitted that Dr H's evidence as a GMC witness fell away, but then when Dr Kuppuswamy suggested that he may wish to adduce evidence from Dr H,

the GMC made her available and the Tribunal received her statements and heard her evidence.

8. Mr Fish submitted that the GMC was not inviting the Tribunal to form the view that Dr H has lied and that Dr H's evidence was that she was at the party, that she was not with Dr Kuppuswamy for the whole time, that she did not see him arrive and she agreed that there was no reason for her to be watching him all evening. He submitted that Dr H did not need the opportunity to respond to, for example, being told she was a liar because that is not the GMC's case and nobody was suggesting that she was a liar. He submitted that there was a slight discrepancy about the pub conversation with Dr A and it was put to Dr H that she might have just slightly misremembered exactly what was said.

9. Mr Fish submitted that the application should therefore be refused.

The Tribunal's Determination

10. The Tribunal considered that Dr H had been called on behalf of Dr Kuppuswamy and had provided written and oral evidence. Dr Kuppuswamy suggests that the GMC did not put their case but the GMC were not seeking to suggest she lied or making accusations against her, or materially challenging her evidence. Matters of challenge had been explored with her in evidence.

11. Dr Kuppuswamy's key objection appeared to be that Dr H ought to have been challenged on the inference that because she did not see the alleged misconduct occur this meant that she might have missed it.

12. The Tribunal observed that Mr Fish was inviting the Tribunal to conclude that there was a reasonable inference from Dr H's evidence that she was not with Dr Kuppuswamy or watching him all night therefore that the alleged misconduct could nonetheless have occurred.

13. The Tribunal was satisfied that Dr Kuppuswamy was able to submit that as Dr H did not see the alleged misconduct, it should interpret this as that the events had not occurred. However, the Tribunal was of the opinion that this was not a conclusion Dr H could make and that this was a matter for the Tribunal to determine during its deliberations on the facts.

14. During her oral evidence, Dr H stated that she had not continuously observed either Dr Kuppuswamy, Dr A or Dr B for the entire party, and the Tribunal considered that in light of

this evidence, it was for the Tribunal to determine the weight to attach to her evidence in deciding whether the alleged misconduct could have occurred.

15. The Tribunal therefore determined that Dr H's evidence was not mishandled, and that the other matters raised in Dr Kuppuswamy's application had already been dealt with. Accordingly, it determined to refuse the application.

ANNEX Q – 03/10/2025

Case Management Directions

1. On 3 October 2025 the Tribunal adjourned part-heard during its deliberations on the facts, due to insufficient time to conclude. Dates to reconvene are to be agreed with parties following the hearing adjourning, via MPTS Case Management.

2. The Tribunal determined to make the following case management directions.

3. Dr Kuppuswamy should inform the MPTS and GMC whether there are any XXX that he would like to be made for future hearing dates by 4:00pm on 17 October 2025.

4. The Tribunal also wished to remind Dr Kuppuswamy that, as has been the case for the whole time, he is entitled to legal advice and/or representation. Whilst the Tribunal previously determined not to adjourn to allow him to seek to obtain legal advice during the facts stage, as set out in its earlier determination, there will now be an inevitable delay before the hearing reconvenes which may provide him an opportunity for him to do so.

5. The Tribunal wished to reiterate, as the Tribunal has not yet reached a determination on the facts it cannot specify what further stages may need to be considered. At the time of determining these directions deliberation on facts had not yet begun.

ANNEX R – 28/01/2026

Temporary stay of the publication of the Tribunal's findings and determination

1. On 26 January 2026 Dr Kuppuswamy made an application for a temporary stay of the publication of the Tribunal's findings and determination.

Submissions

On behalf of Dr Kuppuswamy

2. Dr Kuppuswamy submitted that this was an urgent application for interim relief pending the determination of an appeal under section 40 of the Medical Act, which he indicated he intended to make at the conclusion of these proceedings. He submitted that the appeal raises serious and arguable points of law concerning the legality of the process by which the Tribunal's findings were reached.

3. Dr Kuppuswamy submitted that he was seeking a temporary stay of the publication of the Tribunal's findings and determination, and that the urgency arose because publication would cause immediate, irreversible professional and reputational harm, which could not be undone even if the appeal succeeded.

4. Dr Kuppuswamy submitted that the prejudice was asymmetric as if a stay was granted and the appeal failed, publication could proceed without lasting prejudice to the public interest, whereas if a stay was refused and the appeal succeeded, the damage caused by publication could not be reversed.

5. Dr Kuppuswamy submitted that immediate publication would interfere with his reputation, professional life, and private life and that where findings are challenged as having been reached following an unlawful or procedurally unfair process, premature publication risks disproportionate and irreversible interference with his rights under Article 8 of the ECHR.

6. Dr Kuppuswamy submitted that with respect to the Tribunal's powers, whilst the GMC has indicated that the Tribunal has limited powers, that did not apply to this case, as supported by the following case law examples.

> *R on the application of S v General Medical Council 2005 EWHC 1892* where the court recognised that publication can cause irreversible harm and that interim restrictions may be justified where an appeal is arguable and prejudice would defeat its practical value.
>
> *A (medical practitioner) v GMC 2018 EWHC 1264 Admin* where the court accepted that reputational damage from publication is irreversible and that whilst transparency

is important, it must be balanced against procedural justice, especially where findings are challenged as unsafe.

A v BBC (2014) UKSC 25 that sets out the general law principle that once information is published, the damage cannot be undone.

7. Dr Kuppuswamy also submitted that the Medical Practitioners Tribunal Service guidance on publication sets out that whilst publication is the default position, the Tribunal retains discretion on timing and temporary restrictions, particularly where fairness for justice requires it.

8. The Tribunal was not able to locate the first two cases listed above and asked Dr Kuppuswamy to provide further information about their sources. Dr Kuppuswamy's response was "*I note the difficulty with locating the two cases as I had experienced myself. I am not sure about their accuracy and whether they live in law report portal.*"

9. Dr Kuppuswamy also referred the Tribunal to the *MPTS Tribunal Circular on Publication-and-disclosure* dated 14 September 2021.

On behalf of the GMC

10. Mr Fish submitted that Dr Kuppuswamy's application was essentially that none of the determinations of the Tribunal were made public. He submitted that the Tribunal did not have the power to prevent its determinations being made public, other than matters which have explicitly been determined will be dealt with in private, that there had not been very many in this case and that in terms of the hearing as a whole, it has been by and large conducted publicly.

11. Mr Fish submitted that whilst the Tribunal had the power to direct that parts or all of a hearing may be heard in private, it would be a highly unusual step to order that an entire hearing be private, and that the concerns that Dr Kuppuswamy had addressed could no doubt be made in almost every case. He submitted that the power to sit in private can be exercised in only very, very limited circumstances, which in his submission did not arise in this case.

The Tribunal's Determination

12. The Tribunal noted that the *MPTS Publication and disclosure: Information sheet*, as linked within the *Resource for doctors: New MPT hearings* guidance, which was provided to Dr Kuppuswamy, sets out how to apply to the relevant MPTS team to make any applications relating to what is published about a hearing after it has concluded, as per below:

> *Post-hearing:*
>
> *In most cases following the conclusion of a hearing the tribunal's decisions are published a registrant's hearing record on our website for a period of 12 months. Any private information will be removed prior to publication.*
>
> *At the conclusion of any hearing, we anonymise all determinations and ensure that any sensitive information, for example relating to a registrant's health, has been redacted. Should you wish to make an application relating to what is published about your hearing after it has concluded you should do so in writing, along with any supporting evidence, to the Publication and Redaction team (rodsadmin@mpts-uk.org). You can do so at any time, but your application will usually be considered once your hearing has concluded.*

13. The Tribunal considered that it had no authority set out within the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') to make decisions on post-hearing publication, which was a matter dealt with by the relevant MPTS team. Therefore, any application Dr Kuppuswamy wished to make regarding post-hearing publication would need to be made to the MPTS Publication and Redaction team, as set out in the relevant guidance.

14. The Tribunal noted that members of the press and public were present on 26 January 2026 and that any observers to a public hearing were entitled to copies of determinations handed down in public session. The Tribunal noted that it had no authority to direct what was published by the press in relation to publicly available determinations handed down in public session, or matters discussed in public session.

15. As such, the Tribunal concluded that the only way that it could fulfil Dr Kuppuswamy's request while the hearing was ongoing would be to hold the remainder of the proceedings in private, and hand down any further determinations in private session. This would ensure that

no members of the press or public would hear the matters being discussed or the Tribunal's findings, or receive copies of the Tribunal's determinations during the hearing.

16. The Tribunal therefore went on to consider whether to continue proceedings in private. In doing so, it reminded itself of Rule 41 of the Rules, which states:

> *41.*
> ***(1)*** *Subject to paragraphs (2) to (6) below, hearings before the Committee and a Medical Practitioners Tribunal shall be held in public.*
>
> ***(2)*** *The Committee or Medial Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public.*
>
> ***(3)*** *Subject to paragraphs (4) to (6), the Committee or a Tribunal shall sit in private, where they are considering-*
>
> > ***(a)*** *whether to make or review an interim order; or*
> > [XXX]
>
> …

17. The Tribunal considered that it is expected that all medical practitioners tribunal hearings would be heard in public, save for when matters XXX were being discussed, or in exceptional circumstances.

18. The Tribunal noted that Dr Kuppuswamy's basis for the application was to protect his personal and professional reputation, which it considered was not exceptional or reasonable grounds to justify continuing proceedings in private. Were this to be the case, any doctor who did not accept a Tribunal's findings or intended to appeal could have their case heard in private, undermining transparent, open justice.

19. Dr Kuppuswamy has argued before this Tribunal that procedural aspects of this case have been unfair. Where the arguments were within the remit of the Tribunal's powers those arguments have been considered at length and have been rejected by the Tribunal. The Tribunal decided that the default position of holding the hearing in public for the purposes of open and transparent justice succeeds.

20. The Tribunal is not persuaded that reasons exist in Dr Kuppuswamy's case that justify an exceptional stance, which this Tribunal has concluded would amount to hearing the rest of the case in private.

21. Therefore, the Tribunal determined that the hearing should proceed in public and refused Dr Kuppuswamy's application.

SCHEDULE 1

No.	Date	Platform	Message
1.	31 August 2021, 8:34 PM	WhatsApp	'Thanks [Dr A] you are a perfect sweetheart.'
2.	6 September 2021, 2:14 PM	WhatsApp	'[Dr A] I be there. If you dance with me…'