MPTS Medical Practitioners Tribunal Service

Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 14/11/2022 - 25/11/2022
05/06/2023 - 12/06/2023

Medical Practitioner's name: Mr Olivier BRANFORD

GMC reference number: 4528214

Primary medical qualification: MB BS 1998 University of London

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Catherine Moxon
Lay Tribunal Member:	Mr Paul Curtis
Medical Tribunal Member:	Dr Maria Dyban

Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr David Morris, Counsel, instructed by Keystone Law
GMC Representative:	Mr Ian Brook, 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 - 18/11/2022

Hearing in Private

1. The Tribunal agreed, in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise Rules) 2004 as amended ('the Rules'), that parts of this hearing should be heard in private where the matters under consideration are confidential, namely where they involve XXX. As such, this determination will be read in private but a redacted version will be published following the conclusion of this hearing, XXX.

Background

2. Mr Branford qualified in 1998 from the University of London and completed a number of Senior House Officer posts before becoming a Member of the Royal College of Surgeons in 2002. Mr Branford undertook specialty training from 2003 to 2014 and then a number of fellow/fellowship posts. He completed a doctorate in Plastic Surgery in 2011. Mr Branford obtained his certificate of completion of training and was then added to the GMC's specialist register for plastic surgery from 25 June 2015. Mr Branford's subspecialist interest was in complex cancer reconstruction and aesthetic cases. He completed locum Consultant in Plastic Surgery posts at the Royal Marsden Hospital from January 2016 to April 2017 and then the Queen Victoria Hospital until May 2018. Mr Branford had been an Associate and then Contributing Editor and Editorial Board Member for the international journal 'Plastic and Reconstructive Surgery - Global Open' based in the United States from 2016/2017.

3. At the time of the events which are the subject of this hearing, Mr Branford was practising as a Consultant Plastic Surgeon at the Weymouth Hospital and the Cadogan Clinic from June 2018 to March 2020. He set up his own private aesthetic and reconstructive plastic surgery business in June 2018 and was voted as being in the top 5 of the best breast aesthetic plastic surgeons two years running in the first two years of practice. Mr Branford was also involved in the completion of a large number of clinical papers, as well as basic

science papers and technological innovation papers. Most recently, Mr Branford has completed a Diploma in Transformative Life Coaching in 2022.

4. The Allegation that has led to Mr Branford's hearing relate to his conduct in respect of Patients A, B and C. It is alleged by the GMC that Mr Branford sent inappropriate and/or sexually explicit messages to the three patients via social media and WhatsApp, and engaged in sexual contact during consultations at his clinic. It is alleged by the GMC that Mr Branford's actions were to foster improper emotional attachments and were sexually motivated. It is further alleged that all patients, for varied reasons, were vulnerable at the time.

5. The initial concerns raised with the GMC followed a complaint letter from Patient C's solicitors to the Cadogan Clinic on 31 March 2020. Within the letter, the solicitors asked the Clinic to confirm whether it would make the necessary referral to the GMC or, if not, that alternative steps could be taken. Patient A saw an article in a national newspaper about Mr Branford, who was alleged as having unprofessional and inappropriate sexual behaviour with a former patient, and spoke to her solicitor who advised her to make a referral to the GMC. Further, Patient B learned that Mr Branford was being investigated in respect of two other patients and reported the matter to the Clinic, and then the GMC.

6. XXX.

Patient A

7. Patient A contacted Mr Branford via Instagram to say that she admired his work and was thinking of having surgery herself. Mr Branford replied to say thank you and told her to contact his PA, which she did. Patient A wanted breast reduction surgery and told Mr Branford that surgery would make a huge difference to her life and help change the way she felt about herself, as she was *"suffering from severe body dysmorphia, depression and anxiety"*. The messages continued and Mr Branford was complimentary about Patient A's figure and the way she looked. Patient A said that there were many conversations between them of a sexual nature on Instagram but she only had a few screenshots as Mr Branford had deleted his account, which had deleted the messages. On 18 May 2019 Mr Branford asked for Patient A's mobile number and messages via WhatsApp began. These conversations continued to be of a sexual nature.

8. Patient A contacted Mr Branford's PA between 28 and 29 May 2019 to book a consultation with Mr Branford. The messages continued and Patient A described that

Mr Branford *"went hot and cold with his messaging"* but it continued to be of a sexual nature. The initial consultation took place at the Cadogan Clinic on 9 August 2019. The purpose of the appointment was to assess specific areas of her body and discuss what surgery she wanted to have done, her expectations and suitability. At the appointment, they engaged in consensual sexual intercourse.

9. A second consultation took place on 4 September 2019. The purpose of the appointment was to confirm the specific procedures she was going to have. They were about to have sexual intercourse but heard voices directly outside the consultation room. Mr Branford said that he needed to stop as he did not want to get caught having sex with a patient.

10. The surgery took place on 18 September 2019. Patient A had surgery for breast reduction combined with a breast lift, and liposuction to remove fat. Patient A's last appointment with Mr Branford took place on 14 February 2020. Another appointment was made for 27 March 2020. In a WhatsApp message Mr Branford indicated that he wanted to have sex with Patient A at her next appointment. There was no further contact with Mr Branford after this point and the further appointment was cancelled due to the Covid lockdown.

11. Patient A referred Mr Branford to the GMC, as referred to above. Patient A said that the whole situation had caused her mental health to regress and detailed the impact that the stress had had upon her including causing her waist-length hair to fall out.

Patient B

12. Patient B attended an initial consultation with Mr Branford in April 2019, to discuss having breast reduction surgery. The surgery took place in July 2019 and Mr Branford entered his WhatsApp number into her phone and told her to call him if there were any problems.

13. Patient B attended the Cadogan Clinic for a postoperative check-up appointment with a nurse in July 2019. A number of messages were sent between Patient B and Mr Branford.

14. Around August 2019 Patient B signed up to a skin care service called 'Get Harley', which Mr Branford advertised on his Instagram page. He provided recommendations on medical grade skin care products and in-clinic treatments. Patient B said that Mr Branford

asked about the results from surgery and said that it would be great if he could oil her breasts so that he could post pictures of them on his Instagram page.

15. Patient B described that the messages escalated and developed to messages of a sexual nature. She said that the messages made her feel that it was "*not just a sexual thing*", she opened up to him and told him how nervous, inexperienced and underconfident she was.

16. Patient B said that Mr Branford recommended that she would need to book an appointment in order for him to give her a massage and take photographs for his Instagram page. Mr Branford continued to provide compliments regarding her body via WhatsApp, and then Instagram, messages.

17. At a final check-up post-surgery on 8 October 2019, Mr Branford asked her to show him the results of the breast surgery. Patient B said that Mr Branford started touching her breasts sexually and told her that they looked fantastic. He kissed her breasts and then massaged her breasts with oil in a sexual way. At the end of the appointment, Mr Branford told Patient B that he would be fired if he was caught, told her she was beautiful, and to come to the Clinic for fillers soon. She booked the appointment for 23 October 2019. They exchanged flirty messages.

18. Patient B attended her appointment at the Clinic in October 2019, for fillers to her cheek, chin and jawline. During the appointment, they kissed and Mr Branford asked how her breasts were and whether he could take a look. Mr Branford squeezed her breasts and kissed her neck, and she performed oral sex on him and he masturbated and ejaculated onto her breasts.

19. Patient B attended a further appointment at the Clinic in March 2020. She described that, during the appointment, Mr Branford was behaving *"strangely"* and was uncomfortable when she raised a concern about her breasts and advised that he would refer the matter to another doctor.

20. Patient B detailed her correspondence with Mr Branford after this point, including that she was scared and sorry for him regarding his investigation, and that she was not doing so well with what was going on. Patient B learned that Mr Branford was being investigated in respect of two other patients and then reported the matter to the Clinic, and then the GMC. She detailed the impact of the situation on her, including being treated for depression.

Patient C

21. Patient C contacted the Cadogan Clinic on 3 February 2020 to make an appointment for a consultation with a view to undergoing breast augmentation surgery. An appointment was arranged for 8 February 2020. Patient C followed Mr Branford on Twitter on 5 February 2020 and received a message from him the same day thanking her for following him.

22. Patient C attended the consultation with Mr Branford on 8 February 2020 and, at the end of the appointment, asked her to put his contact details in her phone under his first name rather than Dr Branford, and she had the impression that he was attracted to her. Following the appointment, Mr Branford 'liked' a number of Patient C's posts on Instagram and sent her a number of messages on Instagram. Patient C's breast re-augmentation surgery took place on 24 February 2020. Mr Branford was aware that Patient C was on anti-anxiety medication. They corresponded via WhatsApp and Instagram following the surgery, and the correspondence became sexually explicit.

23. Patient C's first nurse led postoperative check-up took place on 2 March 2020 at 1pm. Mr Branford suggested that Patient C attend the Clinic later the same day at 6pm under the cover of a false appointment. At the appointment, they engaged in sexual intercourse. After this appointment Mr Branford's communication with Patient C significantly cooled off. Patient C said that she thought that they had developed a closeness and thought there was going to be more between them and felt disgusted by him and at herself for allowing him to use her in such a way. This was the last time that Patient C saw Mr Branford. A letter from Patient C's solicitors was sent to the Cadogan Clinic on 31 March 2020 setting out what had occurred.

XXX

24. XXX

25. XXX

26. XXX

The Outcome of Applications Made during the Facts Stage

27. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules for the amendment of the Allegation in respect of paragraphs 5(a), 10(a), 15(a) and 16(a). Mr Morris, Counsel on behalf of Mr Branford, stated that there was no objection taken to the proposed amendments. The Tribunal determined that there was no injustice in making the amendments and granted the GMC's application.

28. Mr Brook, Counsel on behalf of the GMC, also confirmed that a number of paragraphs of the Allegation were withdrawn by the GMC, which is reflected in the Allegation below. A number of amendments to the numbering of the paragraphs of the Allegation were therefore made as a result.

29. On 17 November 2022 the Tribunal granted Mr Branford's application for a witness, XXX, to give oral evidence at the hearing via video link. The Tribunal heard that the witness had clinical commitments and that giving evidence via video link would be of assistance in ensuring his evidence could be facilitated. Mr Brook stated that this application was not opposed by the GMC. The Tribunal granted the application.

The Allegation and the Doctor's Response

30. The Allegation made against Mr Branford is as follows:

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

Patient A

1. On one or more occasion between approximately February 2019 and 19 September 2019, after Patient A had contacted you via social media to advise that she was considering cosmetic surgery, you sent Patient A via social media and WhatsApp inappropriate and/or sexually explicit:

i. pictures of yourself;
Admitted and found proved

ii. videos of yourself;
Admitted and found proved

iii. text messages;
Admitted and found proved

iv. images and/or emojis;
Admitted and found proved

v. voice messages.
Admitted and found proved

~~2. On 24 May 2019, you coerced Patient A into cosmetic breast surgery (the 'Surgery') in that you offered her a reduction in the cost of the Surgery in exchange for the use anonymous photographs of her from before and after the Surgery.~~
Withdrawn

2. ~~3.~~ On 9 August 2019, you consulted with Patient A in your clinic and you:

a. held Patient A's face in your hands;
Admitted and found proved

b. kissed Patient A on the mouth;
Admitted and found proved

c. removed Patient A's:

i. skirt;
Admitted and found proved

ii. knickers;
Admitted and found proved

iii. top;
Admitted and found proved

d. touched Patient A between her legs;
Admitted and found proved

e. exposed your penis to Patient A;
Admitted and found proved

f. engaged in oral sex with Patient A;
Admitted and found proved

g. had sexual intercourse with Patient A on one or more occasions during the consultation;
Admitted and found proved

h. touched Patient A's breasts and/or nipples when it was not clinically indicated;
Admitted and found proved

i. failed to arrange and/or offer Patient A for a chaperone to be present during the consultation;
Admitted and found proved

~~j. failed to explore Patient A's psychological and/or mental health;~~
Withdrawn

~~k. failed to make adequate notes in that you did not record:~~

~~i. examination findings;~~
Withdrawn

~~ii. options for surgical management;~~
Withdrawn

~~iii. an outline of risks and/or complications of liposuction and/or non-surgical aesthetic treatments conveyed to Patient A;~~
Withdrawn

~~iv. any information leaflets shared with Patient A;~~
Withdrawn

j. ~~l.~~ failed to consider whether Patient A was a suitable candidate for cosmetic surgery with you in light of your relationship with her as outlined in paragraphs 1 and 2a ~~3a~~ – 2h ~~3h~~.
Amended under Rule 17(6)
Admitted and found proved

3. ~~4.~~ On 4 September 2019, you consulted Patient A in your clinic and you:

a. removed Patient A's knickers;
Admitted and found proved

b. touched Patient A between her legs;
Admitted and found proved

c. massaged oil:

i. into Patient A's breasts;
Admitted and found proved

ii. between Patient A's legs;
Admitted and found proved

d. kissed Patient A on the mouth;

Admitted and found proved

e. engaged in oral sex with Patient A;
Admitted and found proved

f. hugged Patient A;
Admitted and found proved

g. failed to arrange and/or offer Patient A a chaperone to be present during the consultation;
Admitted and found proved

~~h. failed to explore Patient A's psychological and/or mental health;~~
Withdrawn

~~i. failed to make adequate notes in that you did not record:~~

~~i. an outline of the risks and complications of Surgery conveyed to Patient A;~~
Withdrawn

~~ii. likely outcomes of Surgery;~~
Withdrawn

~~iii. the presence/absence of stretch marks;~~
Withdrawn

~~iv. the distance from the inframammary fold to the nipple as a measure of ptosis;~~
Withdrawn

~~v. an outline of risks and/or complications of liposuction conveyed to Patient A;~~
Withdrawn

h. ~~j.~~ failed to consider whether Patient A was a suitable candidate for cosmetic surgery with you in light of your relationship with her as outlined in paragraphs 1, 2a ~~3a~~ to 2h ~~3h~~ and 3a ~~4a~~ to 3f ~~4f~~.
Amended under Rule 17(6)
Admitted and found proved

~~5. Between 9 August 2019 and 18 September 2019:~~

~~a. you failed to correspond with Patient A and/or her General Practitioner to detail the proposed Surgery;~~

Withdrawn

~~b. in the alternative to paragraph 5a, you agreed to treat Patient A notwithstanding her refusal for you to contact her General Practitioner.~~
Withdrawn

~~6. On 18 September 2019, you performed a double superomedial pedicle based breast reduction or mastopexy and glanduloplasty surgery (the 'Procedure') on Patient A, and you failed to perform the Procedure to the required standard for Patient A's desired outcome.~~
Withdrawn

~~7. On 19 September 2019, you attended Patient A whilst she was recovering in hospital, and you took a photograph of her breasts:~~

~~a. without her consent;~~
Withdrawn

~~b. without explaining how the photograph would be stored.~~
Withdrawn

4. ~~8.~~ You engaged in the conduct as set out in paragraphs 1 to 3 ~~7~~ when you knew Patient A was vulnerable because of her:
Amended under Rule 17(6)

a. body dysmorphia;
To be determined

b. low self esteem.
Admitted and found proved

5. ~~9.~~ Your actions at paragraph(s):

a. 1 ~~was in pursuit of~~ were to foster an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
Admitted and found proved

b. 1, ~~2,~~ 2a ~~3a~~ to 2i ~~3i~~, 3a ~~4a~~ to 3g ~~4g, 7, 8~~ and 5a ~~9a~~ were sexually motivated.
Amended under Rule 17(6)
Admitted and found proved

Patient B

6. ~~10.~~ Between April 2019 and approximately May 2020, you were Patient B's treating doctor and you:

a. In July 2019, following Patient B's breast reduction surgery, ~~you~~ entered your personal WhatsApp number into Patient B's mobile phone;
Amended under Rule 17(6)
Admitted and found proved

b. on one or more occasions sent Patient B via social media and WhatsApp sexually explicit and/or inappropriate:

i. messages;
Admitted and found proved

ii. images/emojis.
Admitted and found proved

7. ~~11.~~ In October 2019, you consulted with Patient B in your clinic and you:

a. hugged Patient B;
Admitted and found proved

b. pulled Patient B's jumper up;
Admitted and found proved

c. touched Patient B's breasts when it was not clinically indicated;
Admitted and found proved

d. kissed Patient B's:

i. breasts;
Admitted and found proved

ii. mouth;
Admitted and found proved

e. rubbed Patient B's vagina through her trousers;
Admitted and found proved

f. applied oil to Patient B's breasts;
Admitted and found proved

g. massaged Patient B's breasts;
Admitted and found proved

h. rubbed your penis against Patient B's leg;
Admitted and found proved

i. inserted your hand and/or fingers into Patient B's trousers and/or knickers;
Admitted and found proved

j. told Patient B that she was 'beautiful';
Admitted and found proved

k. failed to arrange and/or offer Patient B a chaperone to be present during the consultation.
Admitted and found proved

8. ~~12.~~ In October 2019, you consulted with Patient B in your clinic and you:

a. squeezed Patient B's breasts;
Admitted and found proved

b. kissed Patient B's:

i. neck;
Admitted and found proved

ii. mouth;
Admitted and found proved

c. engaged in oral sex with Patient B;
Admitted and found proved

d. masturbated in the presence of Patient B;
Admitted and found proved

e. ejaculated on to Patient B's breasts;
Admitted and found proved

f. told Patient B to 'never forget how beautiful' she is, or words to that effect;
Admitted and found proved

g. put your hands down Patient B's pants.
Admitted and found proved

h. failed to arrange and/or offer Patient B a chaperone to be present during the consultation.

Admitted and found proved

9\. ~~13.~~ You engaged in the activity as set out in paragraphs 6 ~~10~~ to 8 ~~12~~ when you knew Patient B to be vulnerable because of her low self-esteem.
Amended under Rule 17(6)
Admitted and found proved in respect of 8
To be determined in respect of 6 and 7

10\. ~~14.~~ Your actions as set out at paragraph(s):

a. 6 ~~10~~ were to foster ~~in pursuit of~~ an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
Admitted and found proved

b. 6 ~~10,~~ 7 ~~11~~, 8 ~~12, 13~~ and 10a ~~14a~~ were sexually motivated.
Amended under Rule 17(6)
Admitted and found proved

Patient C

11\. ~~15.~~ Between 8 February 2020 and approximately 23 March 2020, you were Patient C's treating doctor and:

a. during a consultation on 8 February 2020, you told Patient C to insert your contact details into her mobile phone;
Admitted and found proved

b. on one or more occasions sent Patient C via social media and WhatsApp inappropriate and/or sexually explicit:

i. messages;
Admitted and found proved

ii. images/emojis.
Admitted and found proved

12\. ~~16.~~ On 24 February 2020 you undertook breast augmentation surgery on Patient C (the 'Breast Surgery') during which you inappropriately viewed Patient C's stomach whilst she was under general anaesthetic.
Admitted and found proved

13\. ~~17.~~ On or around 26 February 2020, you asked Patient C to book an appointment to see you on 2 March 2020 which:

a. was not clinically indicated;
Admitted and found proved

b. you advised Patient C would be a 'false' appointment, or words to that effect.
Admitted and found proved

14. ~~18.~~ On 2 March 2020, you consulted Patient C in your clinic and:

a. prior to the consultation you exchanged messages with Patient C via Instagram in which you stated 'feel free to have a shot' [of alcohol], or words to that effect, in response to Patient C informing you she wished to consume alcohol for her anxiety;
Admitted and found proved

b. you:

i. kissed Patient C on the mouth;
Admitted and found proved

ii. engaged in oral sex with Patient C;
Admitted and found proved

iii. had sexual intercourse with Patient C;
Admitted and found proved

iv. failed to arrange and/or offer Patient C a chaperone to be present during the consultation.
Admitted and found proved

15. ~~19.~~ You engaged in the conduct as set out at paragraph(s):

a. 11, ~~15 to~~ 13 and 14 ~~18~~ when you knew Patient C to be vulnerable because of her~~:~~

~~i.~~ anxiety;
Amended under Rule 17(6)
To be determined

~~ii. low self-esteem;~~
Amended under Rule 17(6)

b. 14b ~~18b~~ when you knew that Patient C had consumed alcohol;
Amended under Rule 17(6)
To be determined

c. 14biii ~~18biii~~ when you knew it was not clinically advisable for Patient C to engage in sexual intercourse for at least two weeks after the Breast Surgery.
Amended under Rule 17(6)
Admitted and found proved

16. ~~20.~~ Your conduct as described at paragraph(s):

a. 11 ~~15 was in pursuit of~~ were to foster an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
To be determined

b. 11 ~~15~~ to 14 ~~19~~ and 16a ~~20a~~ was sexually motivated.
Amended under Rule 17(6)
Admitted and found proved in respect of 11 to 14
To be determined in respect of 16a

17. XXX

18. XXX

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

a. misconduct, in relation to paragraphs 1 to 16 ~~20~~;
To be determined

XXX

The Admitted Facts

31. At the outset of these proceedings, through his counsel, Mr Morris, Mr Branford made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Facts to be Determined

32. In light of Mr Branford's response to the Allegation made against him, the Tribunal is required to determine whether:

- Mr Branford engaged in the conduct set out in paragraphs 1 to 3 of the Allegation when he knew that Patient A was vulnerable because of her body dysmorphia;
- Mr Branford engaged in the activity set out in paragraphs 6 and 7 of the Allegation when he knew Patient B to be vulnerable because of her low self-esteem;
- Mr Branford engaged in the conduct set out at paragraphs 11, 13 and 14 of the Allegation when he knew Patient C to be vulnerable because of her anxiety;
- Mr Branford engaged in the conduct set out at paragraph 14(b) when he knew that Patient C had consumed alcohol;
- Mr Branford's conduct, as described at paragraph 11 of the Allegation, was to foster an improper emotional attachment, and then whether this was sexually motivated.

The Evidence

33. The Tribunal received evidence on behalf of the GMC in the form of witness statements from Patients A, B and C who were not called to give oral evidence. The statements were dated 19 November 2020, 8 February 2021 and 3 July 2020 respectively.

34. Mr Branford provided his own witness statement dated 19 October 2022 and also gave oral evidence at the hearing on 15 and 16 November 2022.

Documentary Evidence

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

- Copies of various messages between Mr Branford and Patients A, B and C;
- Correspondence between Patient C's solicitors and the Cadogan Clinic from February and March 2020;
- Short extract from a clinical record of Patient A - of the consultation on 9 August 2019;
- A document detailing the clinical classification of Body Dysmorphic Disorder (BDD);
- Mr Branford's Curriculum Vitae.

36. XXX

The Tribunal's Approach

37. 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. Mr Branford 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. Decisions must be based upon the evidence alone and not speculation.

Credibility/How to approach evidence

38. In this case the only live evidence at the Facts stage was from Mr Branford. The Legally Qualified Chair (LQC) reminded the Tribunal that it must consider all of the evidence before it before making findings as to Mr Branford's credibility. Further, when assessing his credibility, it should not rely exclusively on his demeanour when giving evidence.

39. It was for the Tribunal to determine which evidence assisted in discharging its duties to make findings and the weight to be given to that evidence. Decisions must be based upon the evidence alone and not speculation.

40. All other witnesses had given unchallenged written evidence. Ordinarily unchallenged evidence is agreed evidence. The LQC reminded the Tribunal that written evidence did not inherently carry less weight than live evidence, it did not inherently carry more weight either. How much weight to attach to any evidence was a matter for the Tribunal to decide.

Sexual motivation

41. The LQC stated that the term 'sexually motivated' was defined in case law as follows: *"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 was not the same as carelessness, recklessness or negligence. The Tribunal must consider if there was a plausible alternative explanation before determining if the conduct was sexually motivated.

Good Character

42. The Tribunal has heard that Mr Branford is of good character. His good character must be taken into account by the Tribunal when assessing his credibility and the likelihood of him having done what has been alleged. His good character was not a defence to the Allegation, it was a factor to take into account when considering all of the evidence in the round. The weight to assign his good character was a matter for the Tribunal to determine.

The Tribunal's Analysis of the Evidence and Findings

43. 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.

Paragraph 4(a)

44. The Tribunal considered whether Mr Branford engaged in the conduct set out at paragraphs 1 to 3 of the Allegation when he knew that Patient A was vulnerable because of her body dysmorphia.

45. The Tribunal had regard to the messages between Patient A and Mr Branford. Within them, Patient A stated:

> *"[21 June 2019] I absolutely hate how I look and need your help, as I feel so ugly and disgusting.*
>
> *...*
>
> *[6 September 2019] I've waited years to reach this point and want this more than anything; you know how much I hate my body and how ugly and disgusting I feel."*

46. The Tribunal had regard to Patient A's witness statement dated 19 November 2020, in which she said:

> *"Dr Branford and I continued to message on Instagram, where I explained the type of surgery I wanted and the results I hoped could be achieved. I told Dr Branford that having surgery would make a huge difference to my life and help change the way I felt about myself, as I was suffering from severe body dysmorphia, depression and anxiety and truly hated myself and the way I looked. I also went into detail about separating from my husband and that I had been on my own for a while as I looked disgusting. Dr Branford said that he would be able to fix me and make me love my body. At this*

point, I felt relieved that I had found someone who seemed to understand my situation and who was going to help me."

47. Within his witness statement dated 19 October 2022, Mr Branford stated:

> *"[At the first consultation on 9 August 2019] I took a history from Patient A and as is my usual practice, I asked Patient A whether she was fit and well and if she had any physical or mental health problems. She confirmed she was fit and well and I noted this as "F + W" in my consultation note. She did not disclose she had any mental health concerns. I also asked if she was on any medication and she advised me she was on the contraceptive pill.*
>
> *...*
>
> *I deny these charges. I did not know that Patient A was vulnerable as that had not been apparent either from her presentation, her demeanour or the history she provided. She did not disclose to me that she had body dysmorphia when I asked appropriate questions to elicit a history of mental and physical health problems. Of course, it is not uncommon for cosmetic surgery patients to suffer from some degree of low self-esteem and, sometimes, a degree of body dysmorphia."*

48. The Tribunal was provided with a clinical classification of BDD. The Tribunal had no clinical evidence before it to suggest that Patient A had a clinical ICD11 diagnosis of BDD.

49. However, it became clear following questions from the Tribunal for Mr Branford that there is a distinction between a clinical diagnosis of BDD and the lay term of 'body dysmorphia'. Within GMC opening submissions, Mr Brook provided a dictionary definition of body dysmorphia, as follows:

> *"she was suffering from severe body dysmorphia (<u>an obsessive preoccupation with a perceived defect in one's appearance?</u>)"*

50. The Tribunal had regard to whether Patient A told Mr Branford that she had body dysmorphia, within consultations or through their messages.

51. Within oral evidence Mr Branford told the Tribunal that Patient A had not mentioned body dysmorphia to him and, in fact, he had not had a patient use the term to describe themselves in his 25 years of practice. Mr Branford stated that there was a spectrum in terms of body dysmorphia, distinct from BDD, and that he did not think that Patient A met the

criteria for this. Further, Mr Branford gave the example that many lay people will say they have the flu when in fact they have a cold. He told the Tribunal that self-diagnosis is fallible and that this is part of the reason why we have doctors. He explained that Patient A perceiving that she had body dysmorphia did not make it so.

52. The Tribunal noted that there was no reference to body dysmorphia in his clinical note of the consultation with Patient A on 9 August 2019. It had regard to Patient A's messages to Mr Branford where she describes herself as *"ugly"* and *"disgusting"*. The Tribunal noted the dictionary definition of body dysmorphia and it appeared to be subjective in nature. The Tribunal was conscious that, from Patient A's witness statement, she thought she had body dysmorphia but, returning to the messages, the use of the terms *"ugly"* and *"disgusting"* would be encapsulated in low self-esteem, which has been admitted.

53. Mr Brook, on behalf of the GMC, referred to Patient A's messages in which she spoke about how she felt about her body and her appearance. He referred to Mr Branford's oral evidence and stated that Mr Branford had initially placed reliance on the clinical definition, but now accepted that there was a lay term of body dysmorphia for people who had concerns about parts of their body, rather than a disorder requiring psychiatric assessment. Mr Brook stated that it was the GMC's case that Patient A was not saying that she had a clinical diagnosis but described her body as *"ugly"* and *"disgusting"* and that, in her view, she had body dysmorphia.

54. Mr Morris, on behalf of Mr Branford, stated that there was no reliable evidence that Patient A said to Mr Branford that she had been suffering from severe body dysmorphia at the consultation on 9 August 2019. He stated that Mr Branford told the Tribunal that Patient A had never told him that she had body dysmorphia and referred to the clinical note where it was noted that she was fit and well. Mr Morris accepted that Mr Branford's evidence had become more nuanced but that, from Mr Branford's point of view, there was a physical abnormality that needed a correction and not body dysmorphia. Mr Morris submitted that Mr Branford did not know that Patient A was suffering from body dysmorphia and was therefore vulnerable.

55. The Tribunal found no evidence that Patient A had a clinical diagnosis of BDD. The Tribunal found that Patient A had told Mr Branford that she had body dysmorphia, as set out in her unchallenged witness statement. However the Tribunal accepted Mr Branford's evidence that he believed that she did not have body dysmorphia. It also accepted

Mr Branford's evidence that Patient A perceiving herself to have severe body dysmorphia would not equate to her, necessarily, having the condition, even on a lay analysis.

56. In all the circumstances and considering all of the evidence before it, the Tribunal determined that the GMC had not proved, on the balance of probabilities, that Mr Branford knew that Patient A was vulnerable because of her body dysmorphia. Accordingly, the Tribunal found this paragraph of the Allegation not proved.

Paragraph 9

57. The Tribunal considered whether Mr Branford engaged in the activity set out in paragraphs 6 and 7 of the Allegation when he knew Patient B to be vulnerable because of her low self-esteem. It has been admitted and found proved in respect of paragraph 8 of the Allegation.

58. The Tribunal noted that Mr Branford also admitted paragraph 9 of the Allegation in respect of paragraph 6 on a limited basis, i.e. only from 22 October 2019 which was in reference to an email that was sent by Patient B to Mr Branford on that date.

59. The Tribunal had regard to that email, in which Patient B stated:

> *"... I just wanted to say a few things that I may not have the courage [or] time to say when I see you... When you started talking to me my confidence was low and I was flattered, slightly in awe and a bit overwhelmed. You boosted my confidence and gave me some joy at a time when I had very little... I shared some feelings/emotions with you, maybe personal, a bit embarrassing but real and a part of me... I came into your office hoping it was not a fantasy and with every intention of being the confident woman I had portrayed myself and grabbing our moment for all it was worth. But. On the day I was just plain scared, I told you I was nervous but it was more than that I was petrified. Not of you but me, my inadequacies my feelings. I overthink things too much but I was so aware of how old I was and how lacking I was in comparison to everyone else who walks into your office. I'm not a beautiful fresh faced model. That is so unfair to you because certainly you've never made me feel that way I do it all for myself. I think maybe you sensed my fear and lack of confidence or whatever reason..." (sic)*

60. Within his witness statement dated 19 October 2022, Mr Branford stated:

"I deny this charge. I was not aware that Patient B was vulnerable. The activity set out above was consensual, although I accept that it was entirely inappropriate between a doctor and their patient."

61. The Tribunal also had regard to the messages between Patient B and Mr Branford. Within them, Patient B stated:

"[14 August 2019] ... and hopefully when I get my Harley creams I will get a face to match. Yes I know they [her breasts] look better than they did when I was 20! The problem is they are going to make everything else look much older!
... I think I said to you when we first met that all I wanted was to look good in clothes so everything else is above and beyond and I still feel almost like I don't deserve it."

"Be soft, be careful be gentle with me I'm overwhelmed, I'm passionate like you in many ways but I'm different. I'm scared I'm not young I'm not a model I'm not fresh faced!... my heart is tender my body is strong."

"I was going to say something really pathetic not that I'm virginal or anything like that XXX."

62. Mr Brook, on behalf of the GMC, submitted that the Tribunal should find this paragraph of the Allegation proved. He stated that the messages between Patient B and Mr Branford showed that he was aware of her low self-esteem prior to 22 October 2019. He stated that the messages set out that she was inexperienced, was under confidence, was quite shy, felt overwhelmed, and was not as confident as he thought she was. Mr Brook stated that he had suggested to Mr Branford in cross-examination that there was nothing new in the email that Patient B sent to Mr Branford, and it was actually a repetition of her earlier messages.

63. Mr Morris, on behalf of Mr Branford, stated that it was admitted that Mr Branford knew Patient B to be vulnerable from 22 October 2019. He referred to Mr Branford's oral evidence in which Mr Branford said that it was his view that, while confidence was an element of self-esteem, it was not definitive and a person could have low, or indeed high, confidence and not have low self-esteem. Mr Morris submitted that the messages prior to 22 October 2019 did not contain suggestions of a lack of self-worth or a lack of self-esteem. He stated that the messages from Patient B about her being scared, excited but nervous and

not being fresh faced related to her entering into a new emotional and sexual sphere rather than a lack of self-confidence or self-worth.

64. The Tribunal noted that Patient B told Mr Branford that her confidence was boosted due to surgery: *"Thank you my confidence has soared and I do think I look amazing"*. The Tribunal had regard to Mr Branford's oral evidence as to the distinction between confidence and low self-esteem. The Tribunal was not persuaded by this explanation. It was unclear why Patient B's confidence/self-esteem would need boosting if it had already been high and did not consider confidence and self-esteem to be separate in this situation.

65. The Tribunal also noted that some of the messages were sexually explicit and she said that she was nervous and overwhelmed: *"I'm very nervous but so looking forward to our appointment... I'm really nervous I've never said or thought stuff like this before by very excited"*. The Tribunal agreed that some of the messages related to being nervous or overwhelmed in anticipation of a sexual encounter rather than being a reflection of her self-esteem.

66. While the messages show that Patient B was overwhelmed at points, the Tribunal was of the view that they also demonstrated someone with low confidence and low self-esteem. The messages showed that Patient B did not feel as if she was worthy of the attention she received from Mr Branford.

67. The Tribunal rejected Mr Branford's assertion that Patient B's email on 22 October 2019 was the 'line in the sand' and that he did not know about her low self-esteem until this point. While there is more direct reference to low self-esteem in the email, the Tribunal agreed with the GMC's submission that the email was a repetition of the earlier messages.

68. The Tribunal determined that, on the balance of probabilities, Mr Branford engaged in the activity set out in paragraphs 6 and 7 of the Allegation when he knew Patient B to be vulnerable because of her low self-esteem. This was clear to him prior to the 22 October 2019 email due to the content and the quantity of messages sent from Patient B to Mr Branford detailing her low confidence and negative perception of herself including her looks XXX. Accordingly, the Tribunal found this paragraph of the Allegation proved in respect of 6 and 7.

Paragraph 15(a)

69. The Tribunal considered whether Mr Branford engaged in the conduct set out at paragraphs 11, 13 and 14 of the Allegation when he knew Patient C to be vulnerable because of her anxiety.

70. The Tribunal had regard to Patient C's witness statement dated 3 July 2020, in which she said:

> *"I was also on anti-anxiety medication at the time of the procedure, but this was not prescribed by Dr Branford (he was fully aware that I was on this)."*

71. Within his witness statement dated 19 October 2022, Mr Branford stated:

> *"I deny this charge. I was not aware that Patient C was vulnerable."*

72. The Tribunal took account of Mr Branford's oral evidence. He told the Tribunal that he knew Patient C had anxiety but that there was nothing to show that the medication was not working, either at the consultation or in their messages.

73. Mr Brook, on behalf of the GMC, stated that Patient C was on anti-anxiety medication and referred to Mr Branford's oral evidence that there had been nothing to indicate to him that the medication was not working. He stated that he went through the NHS list of symptoms of anxiety with Mr Branford and that some of these would not be apparent to a third party. Mr Brook stated that Mr Branford accepted that Patient C was diagnosed with anxiety and that he was aware that she had been prescribed with medication for that condition. He submitted that Mr Branford was aware of Patient C's vulnerability due to her anxiety.

74. Mr Morris, on behalf of Mr Branford, stated that Mr Branford was aware that Patient C was on anti-anxiety medication but that there was nothing in the messaging from 8 February to 23 March 2020 that suggested she was suffering from anxiety or that any medication she was taking was not effective. Mr Morris referred to Mr Branford's oral evidence that he had seen no display, signs or symptoms that Patient A was still suffering from anxiety. Mr Morris stated that, whether or not anxiety is observable by a doctor in an examination, some of the symptoms of anxiety would have been observable, i.e. being agitated, pale or reluctant to do things. Mr Morris submitted that there was absolutely no evidence that, at any stage, Patient C was suffering from anxiety or displaying signs or symptoms of anxiety and therefore might be vulnerable. Mr Morris stated that Patient C's

messaging revealed a very confident woman who was willing to engage with Mr Branford's flirtatious behaviour and prepared to take the sexual initiative.

75. The Tribunal also had regard to the messages between Patient C and Mr Branford. Within them, Patient C stated:

> *"I don't do well with sharp objects near my tits and I didn't know she [the nurse] was going to do that so I freaked myself out and when I stood up I felt lightheaded after and had to sit back down and drink some water.*
> *...*
> *Yeah I'm ok, just got my anxiety up, might have a shot of cognac now! Perhaps all the butterflies in my tummy and anxiety from sharp objects didn't mix well.*
> *But I'm back to just butterflies only again so all good."*

76. The Tribunal noted that this anxiety appeared to relate to a nurse appointment and related to this specific incident only, rather than being demonstrative of her anxiety more generally. The Tribunal was unable to identify any other messages in which Patient C discussed her anxiety.

77. The Tribunal noted that Patient C was taking anti-anxiety medication. However, it was not clear to the Tribunal what the anxiety was linked to or the scope or level of her anxiety. There were no clinical records provided by the GMC to assist with this. Further, the Tribunal was of the view that being anxious in itself did not necessary make someone vulnerable.

78. The Tribunal had regard to the messages and whether there was anything that would have alerted Mr Branford to the fact that Patient C was vulnerable due to her anxiety. It noted that both parties wished to have a sexual encounter and it did not appear that the messages demonstrated any anxiety in respect of her health.

79. The Tribunal determined, on the balance of probabilities, that when Mr Branford engaged in the conduct set out at paragraphs 11, 13 and 14 of the Allegation he did not know Patient C was vulnerable because of her anxiety. The Tribunal found that the GMC had not discharged its burden of proof in relation to providing satisfactory evidence that Patient C's diagnosis of anxiety made her vulnerable. Accordingly, this paragraph of the Allegation is not proved.

<u>Paragraph 15(b)</u>

80. The Tribunal considered whether Mr Branford engaged in the conduct set out at paragraph 14(b) of the Allegation when he knew that Patient C had consumed alcohol.

81. The Tribunal had regard to Patient C's witness statement dated 3 July 2020, in which she said:

> *"Later that same day, I went back to the Clinic for the false appointment with Dr Branford which lasted around thirty minutes. Prior to arriving, I had some cognac to assist with my anxiety. I had mentioned this to Dr Branford and he encouraged this in a message over Instagram stating, 'feel free to have a shot'. At 5:45pm I arrived at the Clinic and messaged to let him know that I was waiting for him in the waiting area. I was a little bit drunk from the Cognac when I arrived and wasn't in the best state due to recovering from the operation. Dr Branford came out to collect me and took me back to his consulting room. When we entered the room, he took his jacket off and we started kissing."*

82. The Tribunal also had regard to the messages between Patient C and Mr Branford. Within them, it stated:

> *"[Patient C] Yeah I'm ok, just got my anxiety up, might have a shot of cognac now! Perhaps all the butterflies in my tummy and anxiety from sharp objects didn't mix well. But I'm back to just butterflies only again so all good.*
> *...*
> *[Mr Branford] Please do have a cognac. Will be sexy to smell it on your breath. I wish I was having one!*
> *[Patient C] Want me to bring my bottle from home so you can and put it in my handbag? It's XO.*
> *[Mr Branford] It's ok can't smell [of] alcohol in clinic x*
> *[Patient C] I can put exactly one shot in a flask for you if you like*
> *[Mr Branford] It's fine don't worry x*
> *[Mr Branford] Feeling relaxed though excited!*
> *[Mr Branford] Less than an hour to go!"*

83. Within his witness statement dated 19 October 2022, Mr Branford stated:

> *"I deny this charge. I am unclear whether Patient C did in fact consume alcohol. I do not recall her behaving as if she had nor did I smell any alcohol on her breath."*

84. The Tribunal took account of Mr Branford's oral evidence, in which he reiterated that he did not recall Patient C behaviour being consistent with having consumed alcohol and that he did not smell any alcohol on her breath. He told the Tribunal that he was unaware Patient C had consumed alcohol and said she may have drunk some water or used chewing gum before he saw her.

85. Mr Brook, on behalf of the GMC, referred to Patient C's witness statement and the messages between her and Mr Branford. Mr Brook referred to the time of the nurse appointment at 1pm and the appointment with Mr Branford at 6pm. He stated that the reference to drinking the cognac was less than an hour to go before the 6pm appointment, before getting into the cab to travel there. Mr Brook submitted that Mr Branford would have been aware that Patient C had taken the cognac within that timeframe.

86. Mr Morris, on behalf of Mr Branford, stated that the messages showed that Patient C might have taken the cognac due to her raised anxiety arising from the nurse appointment but that she then said she was ok. He stated that he did not agree with Mr Brook's analysis of the timings of the messages/cognac. Mr Morris stated that the nurse appointment was at 1pm and there was nothing to suggest that Patient C drank the cognac less than an hour before her appointment with Mr Branford at 6pm. Further, he submitted that there was nothing in Patient C's witness statement or the messages to show that Mr Branford knew that she had consumed the alcohol. Mr Morris stated that it would not have been possible for Mr Branford to have distinguished the slight inebriation from someone who was excited, anxious and nervous at the prospect of a sexual encounter.

87. The Tribunal concluded that Patient C's unchallenged witness statement set out that she did take the shot of cognac and was a little drunk at the consultation. This was supported by the messages between them in which he encouraged her to drink the shot. The Tribunal accepted Mr Brook's submission that it was more likely than not that the shot was drunk approximately an hour before the 6pm consultation as Mr Branford had referenced that there was less than an hour to go until they would meet following the messages about the cognac. Further, while Mr Branford said he could not smell the alcohol, the Tribunal was unconvinced that he would not have known given the close personal contact they then had.

88. The Tribunal determined, on the balance of probabilities, that when Mr Branford engaged in the conduct set out at paragraph 14(b) of the Allegation he knew that Patient C had consumed alcohol, namely a shot of cognac. Accordingly, the Tribunal found this paragraph of the Allegation proved.

Paragraph 16(a)

89. The Tribunal considered whether Mr Branford's conduct as described at paragraph 11 of the Allegation was to foster an improper emotional attachment.

90. The Tribunal had regard to Patient C's witness statement dated 3 July 2020, in which she said:

> *"...Dr Branford make me feel really special by sending those comments. It was nice to hear because I assumed that Dr Branford had seen a lot of women in his line of work and he had seen me at my worse in surgery. He made me feel like he really wanted me.*
>
> *...*
>
> *During the week that I was recovering from surgery, I felt that Dr Branford and I had developed a closeness and thought there was going to be more between us. Since the incident my emotions had varied, I had feelings of anger and felt stupid. I already had anxiety problems, but this situation had made it worse. I felt worthless and naïve. I would never have engaged if he wasn't serious, but he made me feel safe and that everything would be okay."*

91. Within his witness statement dated 19 October 2022, Mr Branford stated:

> *"I deny that I was in pursuit of an emotional relationship. However, I admit that the relationship was entirely improper."*

92. Mr Brook, on behalf of the GMC, submitted that Mr Branford had fostered an improper emotional attachment with Patient C. He stated that Mr Branford had a modus operandi in respect of Patients A and B in terms of fostering an improper emotional attachment and, while the approach was tailored to each patient, the same applied in respect of Patient C. Mr Brook referred to the messages and stated that they included talk of personal matters, Mr Branford being her long term doctor, and the suggestion that she come in for other false appointments to continue the affair. Further, that Patient C thought that

Mr Branford was serious and would never have engaged with him if he thought otherwise. Mr Brook submitted that Mr Branford did whatever was necessary, based on what he picked up about Patient C from the dialogue between them, to facilitate obtaining sex from her. Mr Branford was clearly not interested in an emotional attachment for himself, Mr Brook submitted that it was open to the Tribunal to find that he had fostered an improper emotional attachment.

93. Mr Morris, on behalf of Mr Branford, stated that the GMC relied on what they asserted to be Mr Branford's modus operandi to encourage an emotional attachment in order to have sex. Mr Morris said that this was accepted in respect of Patients A and B, but not regarding Patient C. He submitted that Mr Branford had no need to encourage an improper emotional attachment as she was willing to engage in a sexual relationship without developing an emotional attachment. Mr Morris referred to Patient C's messages about fantasies and desires. He stated that Mr Branford did not refer to love or connections in his messages as he had with Patient A and B.

94. The Tribunal was of the view that there was both a sexual relationship and an emotional relationship. The Tribunal had regard to the messages between Patient C and Mr Branford. Within them, it stated:

> *"[Mr Branford] I have to be totally honest with you - I do have a partner - I wanted you to know.*
> *But it's hard not to think of you.*
> *I am sorry if I have been too forward.*
> *And I would love you to be your doctor long term.*
> *...*
> *[Patient C] I suppose maybe I have a jaded look at things. I had an affair with a married man for many many years, so the married bit just doesn't bother me.*
> *[Mr Branford] I just need to stay safe as we have XXX children and they are my world."*

The Tribunal found that the fact that he was exchanging personal information encouraged an emotional attachment. The Tribunal also noted that, when Mr Branford returned to 'doctor mode' during the consultation, Patient C said she had *"feelings of anger and felt stupid... [she] felt worthless and naïve"*. She said *"I felt that Dr Branford and I had developed a closeness and thought there was going to be more between us... I would never have engaged if he wasn't serious"*.

95. The Tribunal determined, on the balance of probabilities, that Mr Branford's conduct as described at paragraph 11 of the Allegation was to foster an improper emotional attachment. The Tribunal concluded that, by putting his number in her phone and sending the messages, Mr Branford's behaviour was such that he did foster an improper emotional attachment that quickly led to a sexual relationship.

96. The Tribunal was clear that the absence of emotion was unrelated to how the person portrays themselves on social media or other factors such as their occupation. The bar for an emotional attachment is rather low. Patient C was not devoid of emotion. The Tribunal noted that Mr Branford started to tell Patient C about himself and about his personal circumstances, and that a trust between them was developing. The messages between them were not exclusively sexual but also personal.

97. The Tribunal had regard to paragraph 53 of Good Medical Practise (2013) ('GMP'):

> *"You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them."*

The Tribunal determined that it was an 'improper' emotional attachment due to the doctor/patient relationship between Patient C and Mr Branford. He essentially used that relationship to develop the emotional attachment and then pursue a sexual relationship.

98. Accordingly, the Tribunal found this paragraph of the Allegation proved.

<u>Paragraph 16(b)</u>

99. The Tribunal noted that Mr Branford admitted paragraph 16(b) of the Allegation in respect of paragraphs 11 to 14 but not in respect of 16(a). The Tribunal considered whether Mr Branford's conduct as described at paragraph 16(a) was sexually motivated.

100. The Tribunal had regard to the legal advice as to the definition of sexual motivation, namely: *"conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship"*.

101. Given the Tribunal's conclusions in respect of paragraph 16(a) of the Allegation, the Tribunal was of the view that Mr Branford's conduct was in pursuit of a sexual relationship

and therefore was sexually motivated. Accordingly, the Tribunal found this paragraph of the Allegation proved in respect of 16(a).

The Tribunal's Overall Determination on the Facts

102. The Tribunal has determined the facts as follows:

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

Patient A

1. On one or more occasion between approximately February 2019 and 19 September 2019, after Patient A had contacted you via social media to advise that she was considering cosmetic surgery, you sent Patient A via social media and WhatsApp inappropriate and/or sexually explicit:

i. pictures of yourself;
Admitted and found proved

ii. videos of yourself;
Admitted and found proved

iii. text messages;
Admitted and found proved

iv. images and/or emojis;
Admitted and found proved

v. voice messages.
Admitted and found proved

~~2. On 24 May 2019, you coerced Patient A into cosmetic breast surgery (the 'Surgery') in that you offered her a reduction in the cost of the Surgery in exchange for the use anonymous photographs of her from before and after the Surgery.~~
Withdrawn

2. ~~3.~~ On 9 August 2019, you consulted with Patient A in your clinic and you:

a. held Patient A's face in your hands;
Admitted and found proved

b. kissed Patient A on the mouth;
Admitted and found proved

c. removed Patient A's:

i. skirt;
Admitted and found proved

ii. knickers;
Admitted and found proved

iii. top;
Admitted and found proved

d. touched Patient A between her legs;
Admitted and found proved

e. exposed your penis to Patient A;
Admitted and found proved

f. engaged in oral sex with Patient A;
Admitted and found proved

g. had sexual intercourse with Patient A on one or more occasions during the consultation;
Admitted and found proved

h. touched Patient A's breasts and/or nipples when it was not clinically indicated;
Admitted and found proved

i. failed to arrange and/or offer Patient A for a chaperone to be present during the consultation;
Admitted and found proved

~~j. failed to explore Patient A's psychological and/or mental health;~~
Withdrawn

~~k. failed to make adequate notes in that you did not record:~~

~~i. examination findings;~~
Withdrawn

~~ii. options for surgical management;~~
Withdrawn

~~iii. an outline of risks and/or complications of liposuction and/or non-surgical aesthetic treatments conveyed to Patient A;~~
Withdrawn

~~iv. any information leaflets shared with Patient A;~~
Withdrawn

j. ~~l.~~ failed to consider whether Patient A was a suitable candidate for cosmetic surgery with you in light of your relationship with her as outlined in paragraphs 1 and 2a ~~3a~~ – 2h ~~3h~~.
Amended under Rule 17(6)
Admitted and found proved

3. ~~4.~~ On 4 September 2019, you consulted Patient A in your clinic and you:

a. removed Patient A's knickers;
Admitted and found proved

b. touched Patient A between her legs;
Admitted and found proved

c. massaged oil:

i. into Patient A's breasts;
Admitted and found proved

ii. between Patient A's legs;
Admitted and found proved

d. kissed Patient A on the mouth;
Admitted and found proved

e. engaged in oral sex with Patient A;
Admitted and found proved

f. hugged Patient A;
Admitted and found proved

g. failed to arrange and/or offer Patient A a chaperone to be present during the consultation;
Admitted and found proved

~~h. failed to explore Patient A's psychological and/or mental health;~~
Withdrawn

~~i. failed to make adequate notes in that you did not record:~~

~~i. an outline of the risks and complications of Surgery conveyed to Patient A;~~
Withdrawn

~~ii. likely outcomes of Surgery;~~
Withdrawn

~~iii. the presence/absence of stretch marks;~~
Withdrawn

~~iv. the distance from the inframammary fold to the nipple as a measure of ptosis;~~
Withdrawn

~~v. an outline of risks and/or complications of liposuction conveyed to Patient A;~~
Withdrawn

h. ~~j.~~ failed to consider whether Patient A was a suitable candidate for cosmetic surgery with you in light of your relationship with her as outlined in paragraphs 1, 2a ~~3a~~ to 2h ~~3h~~ and 3a ~~4a~~ to 3f ~~4f~~.
Amended under Rule 17(6)
Admitted and found proved

~~5. Between 9 August 2019 and 18 September 2019:~~

~~a. you failed to correspond with Patient A and/or her General Practitioner to detail the proposed Surgery;~~
Withdrawn

~~b. in the alternative to paragraph 5a, you agreed to treat Patient A notwithstanding her refusal for you to contact her General Practitioner.~~
Withdrawn

~~6. On 18 September 2019, you performed a double superomedial pedicle based breast reduction or mastopexy and glanduloplasty surgery (the 'Procedure') on Patient A, and you failed to perform the Procedure to the required standard for Patient A's desired outcome.~~
Withdrawn

~~7. On 19 September 2019, you attended Patient A whilst she was recovering in hospital, and you took a photograph of her breasts:~~

~~a. without her consent;~~
Withdrawn

~~b. without explaining how the photograph would be stored.~~
Withdrawn

4. ~~8.~~ You engaged in the conduct as set out in paragraphs 1 to 3 ~~7~~ when you knew Patient A was vulnerable because of her:
Amended under Rule 17(6)

a. body dysmorphia;
Not proved

b. low self esteem.
Admitted and found proved

5. ~~9.~~ Your actions at paragraph(s):

a. 1 ~~was in pursuit of~~ were to foster an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
Admitted and found proved

b. 1, ~~2,~~ 2a ~~3a~~ to 2i ~~3i~~, 3a ~~4a~~ to 3g ~~4g, 7, 8~~ and 5a ~~9a~~ were sexually motivated.
Amended under Rule 17(6)
Admitted and found proved

Patient B

6. ~~10.~~ Between April 2019 and approximately May 2020, you were Patient B's treating doctor and you:

a. in July 2019, following Patient B's breast reduction surgery, ~~you~~ entered your personal WhatsApp number into Patient B's mobile phone;
Amended under Rule 17(6)
Admitted and found proved

b. on one or more occasions sent Patient B via social media and WhatsApp sexually explicit and/or inappropriate:

i. messages;
Admitted and found proved

ii. images/emojis.

Admitted and found proved

7. ~~11.~~ In October 2019, you consulted with Patient B in your clinic and you:

a. hugged Patient B;
Admitted and found proved

b. pulled Patient B's jumper up;
Admitted and found proved

c. touched Patient B's breasts when it was not clinically indicated;
Admitted and found proved

d. kissed Patient B's:

i. breasts;
Admitted and found proved

ii. mouth;
Admitted and found proved

e. rubbed Patient B's vagina through her trousers;
Admitted and found proved

f. applied oil to Patient B's breasts;
Admitted and found proved

g. massaged Patient B's breasts;
Admitted and found proved

h. rubbed your penis against Patient B's leg;
Admitted and found proved

i. inserted your hand and/or fingers into Patient B's trousers and/or knickers;
Admitted and found proved

j. told Patient B that she was 'beautiful';
Admitted and found proved

k. failed to arrange and/or offer Patient B a chaperone to be present during the consultation.
Admitted and found proved

8. ~~12.~~ In October 2019, you consulted with Patient B in your clinic and you:

a. squeezed Patient B's breasts;
Admitted and found proved

b. kissed Patient B's:

i. neck;
Admitted and found proved

ii. mouth;
Admitted and found proved

c. engaged in oral sex with Patient B;
Admitted and found proved

d. masturbated in the presence of Patient B;
Admitted and found proved

e. ejaculated on to Patient B's breasts;
Admitted and found proved

f. told Patient B to 'never forget how beautiful' she is, or words to that effect;
Admitted and found proved

g. put your hands down Patient B's pants.
Admitted and found proved

h. failed to arrange and/or offer Patient B a chaperone to be present during the consultation.
Admitted and found proved

9. ~~13.~~ You engaged in the activity as set out in paragraphs 6 ~~10~~ to 8 ~~12~~ when you knew Patient B to be vulnerable because of her low self-esteem.
Amended under Rule 17(6)
Admitted and found proved in respect of 8
Determined and found proved in respect of 6 and 7

10. ~~14.~~ Your actions as set out at paragraph(s):

a. 6 ~~10~~ were to foster ~~in pursuit of~~ an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
Admitted and found proved

b. 6 ~~10,~~ 7 ~~11~~, 8 ~~12, 13~~ and 10a ~~14a~~ were sexually motivated.
Amended under Rule 17(6)
Admitted and found proved

Patient C

11. ~~15.~~ Between 8 February 2020 and approximately 23 March 2020, you were Patient C's treating doctor and:

a. during a consultation on 8 February 2020, you told Patient C to insert your contact details into her mobile phone;
Admitted and found proved

b. on one or more occasions sent Patient C via social media and WhatsApp inappropriate and/or sexually explicit:

i. messages;
Admitted and found proved

ii. images/emojis.
Admitted and found proved

12. ~~16.~~ On 24 February 2020 you undertook breast augmentation surgery on Patient C (the 'Breast Surgery') during which you inappropriately viewed Patient C's stomach whilst she was under general anaesthetic.
Admitted and found proved

13. ~~17.~~ On or around 26 February 2020, you asked Patient C to book an appointment to see you on 2 March 2020 which:

a. was not clinically indicated;
Admitted and found proved

b. you advised Patient C would be a 'false' appointment, or words to that effect.
Admitted and found proved

14. ~~18.~~ On 2 March 2020, you consulted Patient C in your clinic and:

a. prior to the consultation you exchanged messages with Patient C via Instagram in which you stated 'feel free to have a shot' [of alcohol], or words to that effect, in response to Patient C informing you she wished to consume alcohol for her anxiety;
Admitted and found proved

b. you:

i. kissed Patient C on the mouth;
Admitted and found proved

ii. engaged in oral sex with Patient C;
Admitted and found proved

iii. had sexual intercourse with Patient C;
Admitted and found proved

iv. failed to arrange and/or offer Patient C a chaperone to be present during the consultation.
Admitted and found proved

15. ~~19.~~ You engaged in the conduct as set out at paragraph(s):

a. 11, ~~15 to~~ 13 and 14 ~~18~~ when you knew Patient C to be vulnerable because of her~~:~~

~~i.~~ anxiety;
Amended under Rule 17(6)
Not proved

~~ii. low self-esteem;~~
Amended under Rule 17(6)

b. 14b ~~18b~~ when you knew that Patient C had consumed alcohol;
Amended under Rule 17(6)
Determined and found proved

c. 14biii ~~18biii~~ when you knew it was not clinically advisable for Patient C to engage in sexual intercourse for at least two weeks after the Breast Surgery.
Amended under Rule 17(6)
Admitted and found proved

16. ~~20.~~ Your conduct as described at paragraph(s):

a. 11 ~~15 was in pursuit of~~ were to foster an improper emotional attachment ~~relationship~~;
Amended under Rule 17(6)
Determined and found proved

b. 11 ~~15~~ to 14 ~~19~~ and 16a ~~20a~~ was sexually motivated.

Amended under Rule 17(6)
Admitted and found proved in respect of 11 to 14
Determined and found proved in respect of 16a

17. XXX

18. XXX

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

a. misconduct, in relation to paragraphs 1 to 16 ~~20~~;
To be determined

b. XXX

Determination on Impairment - 08/06/2023

103. 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, Mr Branford's fitness to practise is impaired by reason of misconduct XXX.

The Outcome of Applications Made during the Impairment Stage

104. On 23 November 2022, the Tribunal granted the application made by Mr Morris, on Mr Branford's behalf, pursuant to Rule 41 of the Rules, for reference to XXX to be heard in private session. The Tribunal's full decision on the application, as announced on 25 November 2022, is included at Annex A.

105. On 24 November 2022 the Tribunal granted the application made by Mr Morris, on Mr Branford's behalf, pursuant to Rule 29(2) of the Rules, for the adjournment of the hearing at that point. The Tribunal made a number of directions to assist with the management of the case. The Tribunal's full decision on the application, as announced on 25 November 2022, is included at Annex B.

The Evidence

106. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows:

107. XXX.

108. XXX

109. Mr Branford provided a supplemental witness statement dated 18 November 2022 and also gave oral evidence at the hearing on 23 November 2022 and 5 June 2023.

110. XXX

111. On Mr Branford's behalf, the Tribunal received oral evidence from XXX, and Mr F, a Consultant Plastic, Reconstructive and Aesthetic Surgeon and Mr Branford's mentor. Mr F's witness statement was signed on 24 November 2022, the day he gave oral evidence. Mr F also provided an updated testimonial dated 5 June 2023.

112. The Tribunal also received, in support of Mr Branford, a remediation bundle. This included letters of thanks from patients, and a number of testimonials. The bundle also contained documentation from XXX, and certificate of attendance at a training course entitled "Maintaining Professional Boundaries' on 5 to 7 May 2020.

113. Additional evidence was provided on the resumption on the hearing in June 2023, including an updated reflective statement from Mr Branford dated May 2023, two additional testimonials XXX.

114. Within the reflective statement of May 2023, Mr Branford stated that he wished to provide the Tribunal with an update on the work he had undertaken on his insight and remediation since November 2022. Mr Branford repeated that he was immensely sorry for the harm that he caused the three patients. He stated that he had re-read their witness statements and stated that he recognised, and very much regretted, the impact of his behaviour on them. Mr Branford stated that he remained extremely committed to his XXX remediation and that he had continued to take significant steps to prevent any repetition of this behaviour, XXX. He spoke of XXX his work on a six month course in transformative life coaching. Mr Branford stated that:

> *"My reflective practice XXX have completely reframed my professional and personal beliefs and how I would act in the future as a surgeon, as part of a team in a supportive environment... believe that the insight and remediation I have developed*

over these three years have allowed me to learn from my conduct, such that it will never be repeated. If I were given the opportunity to resume my medical career, I would do so with greater compassion, morality, strength and resilience, all of which would benefit patients and colleagues."

115. XXX

116. XXX

117. The Tribunal was also provided with other various documentation, on behalf of Mr Branford, including a letter from Mr Branford's legal representatives to the GMC dated 5 July 2022, XXX

XXX

XXX

Submissions

Submissions on behalf of the GMC

118. Mr Brook, Counsel, submitted that Mr Branford's actions were serious misconduct and that his fitness to practise was currently impaired by reason of misconduct XXX.

119. In terms of insight, Mr Brook submitted that Mr Branford was more concerned about himself rather than the three patients and that he was far from being at the end of the road on his journey towards full insight.

120. With reference to remediation, Mr Brook submitted that the misconduct was so serious that remediation was impossible.

121. Mr Brook submitted that, even if the Tribunal was to find that Mr Branford had developed full insight and had fully remediated (which were disputed), public policy required a finding of current impairment.

122. XXX

123. XXX

124. XXX

125. XXX

126. XXX

127. Mr Brook stated that, in Mr Branford's reflective piece, he was aware of the risks of his conduct, but did not think he would be reported. Mr Brook stated that the GMC says this amounts to rational thought on Mr Branford's part - he simply made a risk assessment and thought that none of these women would complain about him, because each of them enjoyed flirting with him and the sexual activity was consensual.

128. XXX

129. XXX

130. XXX

131. XXX

132. XXX

133. XXX

134. XXX

135. Mr Brook submitted that public policy required a finding of impairment for matters as serious as these, no matter what the level of insight and remediation found.

Submissions on behalf of Mr Branford

136. Mr Morris, Counsel, submitted that Mr Branford accepted that the misconduct falls seriously below standard and passes the threshold for misconduct.

137. XXX

138. XXX

139. XXX

140. XXX

141. XXX

142. XXX

143. XXX

144. XXX

145. XXX

146. XXX

147. Mr Morris submitted that Mr Branford was a witness of truth who gave painful and acutely embarrassing evidence clearly and fully. He stated that Mr Branford had not been shown to have deliberately misrepresented his history, both family XXX.

148. XXX

149. Mr Morris submitted that Mr Branford had shown full insight. He referred to Mr Branford's reflective statement and oral evidence. In terms of recognition of harm done to patients, Mr Morris stated that there were three stages of recognition, from the time of misconduct when he did not think that he was hurting anyone, XXX, to the hearing when Mr Branford stated:

> *"I believe they felt a lot of pain. I believe they felt betrayed; I believe they felt led on. I believe that it really knocked their self-confidence, which was already low, and I believe that it reawakened any previous trauma that they may have experienced in their lives."*

150. Mr Morris referred to Mr Branford's oral evidence where he made specific reference to Patient B's witness statement. Mr Morris stated that Mr Branford may have/probably was mistaken in saying that he had not seen the witness statements before. He stated that, importantly, when informed/reminded of the specific harm the patients described in their statements, Mr Branford accepted responsibility for it without hesitation. XXX

151. XXX

152. Mr Morris submitted that, notwithstanding full insight and extensive remediation, Mr Branford accepted that the seriousness of the misconduct, even if mitigated by XXX and unlikely to recur, required a sanction in the wider public interest. He stated that a finding of impairment was accordingly necessary.

153. XXX

The Relevant Legal Principles

154. The legal advice was reduced to writing and provided to both barristers and agreed by both counsel before being read into the record so that the Tribunal was able to be proved with written legal advice from the LQC endorsed by all parties.

155. XXX

XXX

156. XXX

157. XXX

XXX

158. XXX

159. XXX

160. XXX

161. XXX

162. XXX

XXX

163. XXX

164. XXX

XXX

165. XXX

Misconduct and Impairment

166. 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, including whether the misconduct was serious and second whether Mr Branford's fitness to practise is currently impaired by reason of misconduct XXX.

167. The LQC reminded the Tribunal that there was no legal definition for the word *"serious"* and the word should be given its ordinary meaning. Serious professional misconduct had previously been described in case law as *"conduct which would be regarded as deplorable by fellow practitioners"*. There should be a *"high threshold"* where only serious misbehaviour would amount to misconduct. The threshold of gravity was not rigid or hard-edged and so it may be unhelpful for the principle to be tied too firmly to particular phraseology such as *"reprehensive"*, *"morally culpable"* or *"disgraceful"*.

168. The authorities are clear that a person is not to be regarded as guilty of professional misconduct if they engage in behaviour that is trivial, inconsequential, a mere temporary lapse or something that is otherwise excusable or forgivable.

169. For the purpose of fitness to practise proceedings, *"misconduct"* is defined as follows:

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

Any falling short should be a serious falling short.

170. The LQC stated that, where a Tribunal finds misconduct, it should be clear on whether this amounts to a significant departure from the guidance in Good Medical Practice ('GMP') or not.

171. The Tribunal must determine whether Mr Branford's fitness to practise is impaired today, taking into account Mr Branford'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.

172. The LQC stated that there is a rebuttable presumption of impairment in sexual misconduct cases. This means that the starting point is that the Tribunal is likely to consider there to be an impairment on fitness to practice in a sexual misconduct case. Rebuttable means that this will not always be so as the presumption can be displaced by evidence.

173. The Tribunal must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

174. The LQC stated that the Tribunal may also be assisted by Dame Janet Smith. She said in the Fifth Shipman Report, as approved by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 (Admin), there were some features which are likely to be present when impairment is found. The features are as follows:

[the registrant...]

"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 or is liable in the future to bring the medical profession into disrepute; and/or
c. Has in the past breached or is liable to breach in the future 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."*

XXX

175. XXX

176. XXX

177. XXX

178. XXX

The Tribunal's Determination on Impairment

XXX

179. XXX

180. XXX

181. XXX

182. XXX

183. XXX

184. XXX

XXX

185. XXX

186. XXX

187. XXX

188. XXX

189. XXX

190. XXX

191. XXX

192. XXX

193. XXX

194. XXX

195. XXX

196. XXX

197. XXX

198. XXX

199. XXX

200. XXX

201. XXX

202. XXX

203. XXX

204. XXX

Misconduct

205. The Tribunal considered whether Mr Branford's actions as found proved amount to misconduct.

206. The Tribunal considered that Mr Branford's actions represented a departure from GMP, namely the following paragraphs:

> *"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.*
>
> *47. You must treat patients as individuals and respect their dignity and privacy.*
>
> *53. You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them."*

207. The Tribunal also referred to the GMC's guidance on 'Maintaining a professional boundary between you and your patient', which came into effect on 22 April 2013. It considered that the following paragraphs were applicable to this case:

> *"3. Trust is the foundation of the doctor-patient partnership. Patients should be able to trust that their doctor will behave professionally towards them during consultations and not see them as a potential sexual partner.*
>
> *4. You must not pursue a sexual or improper emotional relationship with a current patient.*
>
> *5. If a patient pursues a sexual or improper emotional relationship with you, you should treat them politely and considerately and try to re-establish a professional boundary. If trust has broken down and you find it necessary to end the professional relationship, you must follow the guidance in ending your professional relationship with a patient.*

> *11. Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.*
>
> *14. You must consider the potential risks involved in using social media and the impact that inappropriate use could have on your patients' trust in you and society's trust in the medical profession. Social media can blur the boundaries between a doctor's personal and professional lives and may change the nature of the relationship between a doctor and a patient. You must follow our guidance on the use of social media."*

208. The Tribunal had regard to the facts which have been admitted/found proved. Mr Branford and his patients engaged in sexual activities in the clinical setting, he encouraged a patient to make a false appointment so that they could have sex. The conduct involved social media use by Mr Branford and his interaction with the patients, including sending explicit images and written "sexting" messages. He did so to foster an improper emotional attachment with them. Mr Branford met each of the complainant patients in his capacity as their surgeon, on each occasion communication began as clinical and then escalated and progressed to sexual contact at the clinic. It was of the view that Mr Branford had abused his professional position as a doctor in pursuing sexual relationships with the three patients.

209. The Tribunal has found that Mr Branford's actions involved exploiting the vulnerabilities of two of the patients, Patients A and B, and that he continued to pursue them despite the vulnerabilities. Also, in respect of Patient C, Mr Branford had sex with her a week after her breast operation when he knew it was not clinically advisable as he had told her to refrain from sexual intercourse for two weeks after the surgery.

210. There was significant harm caused to Patients A, B and C, who in their unchallenged evidence said:

> Patient A - *"This whole situation with Dr Branford... has caused my mental health to regress quite significantly, making me feel even more disgusting, pathetic and worthless than before. The stress from this situation caused my hair to fall out, which had previously been down to my waist and was the longest I'd ever had it as I'd been trying to grow it for many years."*

Patient B - *"I am making this statement as I can now see what happened was not in fact harmless fun but has impacted both my life and Dr Branford's massively. Dr Branford was in a position of authority and I placed my trust in him as my doctor. The balance of power was always on his side and we were not playing on an equal court. It is clear that he abused that power. I feel that his motivation was more to do with his self-worth and feeling needed, and that manifested in my case in a deep emotional attachment on my part which was damaging. The last message from Dr Branford XXX has been stuck in my head and has made me feel partly responsible. This incident has affected my mental health, it has also left me with low confidence and self-worth. As a result, I am now taking anti-depressants which I cannot come off without hallucinating and I am also having to speak to a therapist each week."*

Patient C - *"During the week that I was recovering from surgery, I felt that Dr Branford and I had developed a closeness and thought there was going to be more between us. Since the incident my emotions had varied, I had feelings of anger and felt stupid. I already had anxiety problems, but this situation had made it worse. I felt worthless and naïve. I would never have engaged if he wasn't serious, but he made me feel safe and that everything would be okay. I decided to speak with my therapist about the incident as I would tend to blame myself. At one point, the incident caused me to drink a lot."*

211. The Tribunal determined that Mr Branford's actions represented a significant departure from the principles of Good Medical Practice and the principles applicable to doctor-patient professional boundaries. Further, the Tribunal determined that the nature of the conduct in the Allegation XXX amounted to misconduct.

212. The Tribunal concluded that Mr Branford's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct, which was serious.

<u>Impairment by reason of misconduct</u>

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

214. With regards to remediation, the Tribunal was mindful that, given the nature and seriousness of the misconduct, it would be very difficult to remediate it. The Tribunal had regard to the courses undertaken (including the maintaining professional boundaries course), XXX, and Mr Branford's statements/reflective pieces and oral evidence. Mr Branford referred to a number of different inputs, including *"mentoring, transformative coaching, XXX"*. Nevertheless, when set against the serious nature of the misconduct, the Tribunal determined that these actions had not been sufficient to remediate it.

215. In respect of insight into the misconduct, the Tribunal determined that Mr Branford had some, but limited, insight. It was of the view that Mr Branford's insight appeared to fluctuate and was very much focused inwardly rather than upon the wider public and the actual harm that his actions caused to the patients.

216. Mr Branford did not address, within his reflective statement of May 2023, how he would deal with a return to surgery. However Mr F, his mentor who was in contact with him on a daily basis, in his additional statement in support of Mr Branford dated 5 June 2023 a reference was made to Mr F being "*willing to explore and support him in considering becoming part of a Multi-Disciplinary Onco-Plastic Breast Service team, providing microsurgical input".* Mr Branford confirmed in oral evidence that this was something he would like to do.

217. The Tribunal was concerned that Mr Branford was trying to answer questions in the way that he thought he should answer them in relation to any return to work. The answers given in evidence did not appear well thought through and demonstrated inconsistencies in Mr Branford's own understanding of what he needed to remediate and show insight into. To some extent this undermined evidence previously received from Mr Branford on both remediation and insight and in fact opened up more issues such that the Tribunal was concerned about future risks.

218. The Tribunal was particularly concerned about Mr Branford's answers, in his oral evidence on 5 June 2023, about reconstructive and cosmetic surgery. This included that, if he were to return to reconstructive surgery, he would want a cast iron guarantee with zero contact with patients, close supervision and monitoring. The Tribunal noted that Mr Branford went on to say that he would want his supervisor with him for surgery. This appeared, to the Tribunal, to emphasize that Mr Branford was of the view that there remained a high risk. The Tribunal was unclear why Mr Branford felt he needed to be supervised during surgery. The

misconduct did not relate to clinical skills or misconduct during the course of operations but was about inappropriate relationships with patients.

219. Mr Branford distinguished reconstructive surgery and cosmetic surgery. The former being what he missed and longed for. The latter not being the line of work that he wanted. He explained that he was not sure how he would deal with a situation where a person required a single reconstructive breast surgery and then cosmetic surgery on the other breast to attempt to create a symmetry because of his evolved understanding of self-validation and the need for everyone to accept themselves for who they are.

220. Mr Branford also made a number of comments about his ethical compass that he has developed in recovery, that he questions whether people should even be having private cosmetic surgery, and that he would be saying to patients that external change was not needed and that they should not have cosmetic surgeries.

221. Mr Branford was inconsistent about whether he would want to return to cosmetic surgery. His original stance was that he would not work in cosmetic surgery. Within his oral evidence in November 2022, Mr Branford stated:

> *"I also feel that I don't think I should return to cosmetic surgery because I think it would be unsafe for me and the patients and would trigger (inaudible)."*

222. When asked within his oral evidence in June 2023, 'XXX?' he said he would have absolutely no doubt and he would be very safe if he was working in reconstructive surgery within the NHS. He would not go back into cosmetic breast surgery without much more understanding of his subconscious behaviour.

223. Mr Branford was asked about his previous evidence that cosmetic breast surgery was a 'toxic environment'. His answer was that it was very toxic in London but that Mr F said that it was very different in Sheffield. The Tribunal was concerned that, having initially identified cosmetic surgery as being toxic due to the client pool and the competitive and jealous environment with colleagues existing in that type of surgery, he now appeared to be downplaying that by accepting Mr F's view that a similar environment did not exist in Sheffield.

224. Mr Branford was asked 'why ever consider cosmetic surgery?' and when asked what would make him return to it, he said that it would be financial as he would be making ten

times more money. Mr Branford appeared to now not be ruling out returning to private cosmetic surgery which was in stark contrast to his evidence in November 2022. The Tribunal was concerned that it appeared that Mr Branford was now considering a return to the type of surgery which he said was a significant factor in his behaviour.

225. The global concern is that on 5 June 2023 Mr Branford told the Tribunal both that he was very safe to return to reconstructive surgery but also that he would need cast iron guarantees of supervision and a package of zero patient contact and close supervision including during surgeries. He also expected that he would have a mentor present in the operating theatre with whom he would be able to discuss the issues of reconstructive and cosmetic surgery when dealing with NHS procedures. The Tribunal found this to be inconsistent with his earlier assertion that he was fit to return to surgery.

226. Having regard to the risk of repetition, the Tribunal had regard to the limited insight and the lack of remediation displayed by Mr Branford. It determined that, as a result, the risk of repetition was high in this case.

227. The Tribunal referred to the approach set out in the case of *Grant*, as quoted in full above. The Tribunal was of the view that limbs (a) to (c) were engaged in this case. Mr Branford had acted so as to put patients at unwarranted risk of harm, he had brought the medical profession into disrepute, and had breached a fundamental tenet of the profession. The Tribunal was concerned that Mr Branford was liable to do so in the future too given the high risk of repetition.

228. The Tribunal determined that a reasonable and well informed member of the public would be appalled to learn of Mr Branford's misconduct and consider that a finding of impairment should be made.

229. The Tribunal determined that all three limbs of the statutory overarching objective were engaged. It concluded that a finding of impaired fitness to practise was required to protect and promote the health, safety and wellbeing 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.

230. The Tribunal has therefore determined that Mr Branford's fitness to practise is impaired by reason of misconduct.

<u>XXX</u>

231. XXX

232. XXX

233. XXX

234. XXX

235. XXX

236. XXX

237. XXX

238. XXX

239. XXX

240. XXX

241. XXX

Determination on Sanction - 12/06/2023

242. Having determined that Mr Branford's fitness to practise is impaired by reason of misconduct XXX, 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

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

Submissions

<u>Submissions on behalf of the GMC</u>

244. Mr Brook, Counsel, submitted that erasure of Mr Branford's name from the medical register was the only proportionate sanction in this case. He referred to the Tribunal's comments in its impairment determination in respect of the limited insight, the lack of remediation, that the risk of repetition is high, and raising concerns about the inconsistencies within Mr Branford's evidence.

245. Mr Brook submitted that Mr Branford must have been aware of the environment he was creating when setting up his private cosmetic practice. Mr Brook submitted that Mr Branford simply could not resist his desires. He stated that Mr Branford knew that he had a choice and that Mr Branford should not have been doing what he did, which Mr Branford accepts.

246. XXX

247. Mr Brook referred to a number of paragraphs within the Sanctions Guidance (16 November 2020) ('the SG'), including paragraph 107:

> *"The tribunal may erase a doctor from the medical register in any case - except one that relates solely to the doctor's health and/or knowledge of English - where this is the only means of protecting the public."*

248. He also referred to a number of the factors within paragraph 109 of the SG, which if present may indicate erasure is appropriate, namely:

> *"a. A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*
> *b. A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.*
> *...*
> *d. Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
> *e. Violation of a patient's rights/exploiting vulnerable people (see Good medical practice, paragraph 27 on children and young people, paragraph 54 regarding expressing personal beliefs and paragraph 70 regarding information about services).*
> *...*

j. Persistent lack of insight into the seriousness of their actions or the consequences."

He submitted that Mr Branford's actions were a flagrant breach of paragraph 53 of GMP (as quoted previously), not only pursuing sexual relationships, but actively having sexual intercourse with patients in the clinic. Mr Brook stated that two of the patients were vulnerable and there was a persistent lack of insight displayed by Mr Branford.

249. Mr Brook also referred to the sections of the SG headed 'Abuse of professional position', 'Vulnerable patients', 'Predatory behaviour' and 'Sexual misconduct', including that:

> *"143. Doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.*
>
> *...*
>
> *146. Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.*
>
> *147. If a doctor has demonstrated predatory behaviour, motivated by a desire to establish a sexual or inappropriate emotional relationship with a patient, there is a significant risk to patient safety, and to public confidence and/or trust in doctors. More serious action is likely to be appropriate where there is evidence of...:*
>
> > *a. inappropriate use of social networking sites to approach a patient outside the doctor-patient relationship...*
>
> *...*
>
> *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 [...]. More serious action, such as erasure, is likely to be appropriate in such cases."*

250. Mr Brook submitted that, in all the circumstances of this case, erasure of Mr Branford's name from the medical register was the only proportionate sanction.

<u>Submissions on behalf of Mr Branford</u>

251. XXX

252. XXX

253. Mr Morris referred to the Tribunal's comments in respect of insight at the impairment stage, including that Mr Branford XXX He submitted that the Tribunal accepted that Mr Branford had engaged seriously and genuinely in this case and that this was an important element of mitigation.

254. In terms of other aspects of mitigation, Mr Morris referred to the admissions made by Mr Branford, such that the three patients did not have to attend the hearing and give evidence, which would undoubtedly have been very stressful and painful for them. Mr Morris stated that Mr Branford had accepted the harm that he had caused, and referred to various references in the documentation including Mr Branford's statements and reflective pieces in this regard.

255. Mr Morris stated that Mr Branford had apologised to the patients, his colleagues, the wider medical profession, and the public. Mr Morris also submitted that Mr Branford had made efforts to remediate. He stated that Mr Branford had made genuine efforts to address issues that had arisen XXX in terms of his XXX misconduct and that the remediation could continue in the future to allow Mr Branford to demonstrate that the risk of repetition was not so high in the future.

256. Mr Morris submitted that the Tribunal has seen the work that Mr Branford has achieved in terms of XXX the mentorship/coaching from Mr F. Mr Morris stated that, XXX, Mr Branford has become a totally different person in the last 32 months.

257. Mr Morris stated that, while Mr Branford would not accept that his conduct is irremediable, Mr Branford fully accepted that action was necessary to maintain public confidence. Mr Morris stated that, with reference to Mr Branford's character and previous history, Mr Branford suffered serious distress XXX following his failure to secure a Consultant role. XXX

258. Mr Morris referred to the testimonials provided on behalf of Mr Branford. He submitted that the Tribunal has some effusive and heartfelt letters from patients who had undergone reconstructive surgery, concerning Mr Branford's skill and compassion.

259. Mr Morris submitted that Mr Branford recognised that there were aggravating factors, including abuse of position, predatory behaviour, and sexual misconduct. Mr Morris

stated that there was insight, albeit that the Tribunal has found it to be limited, and there was no previous finding of impairment.

260. Mr Morris referred to the factors at paragraph 109 of the SG, and that Mr Branford had to accept that there were some of the factors that were present in this case. He submitted that whether erasure was appropriate and necessary was a matter of judgement for the Tribunal - it was not mandatory and the guidance was not prescriptive. Mr Morris stated that it was a matter of balancing the need to uphold the public interest in all its forms against the mitigating circumstances in this case.

261. Mr Morris stated that if the Tribunal did not find that Mr Branford was fundamentally unsuited to remain within the profession, he made the submission that suspension would be the appropriate and sufficient sanction. He referred to paragraph 91 of the SG that *"Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor..."* Mr Morris submitted that suspension dealt with the seriousness of the matter when it was looked at it in the global context of all the mitigation that was available.

262. Mr Morris submitted that while Mr Branford had not fully remediated the concerns, does not have complete insight, XXX all of these matters could be dealt with in the passage of time (i.e. 12 months of suspension) and the continuation of the work that Mr Branford was engaging in. Mr Morris submitted that this approach would meet the public interest requirements that the Tribunal had identified in this case.

The Tribunal's Determination on Sanction

263. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.

264. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. It has borne in mind that the purpose of sanctions are not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

265. The Tribunal has considered the principle of proportionality and has weighed the doctor's interest against the public interest.

Question regarding Mr Branford's evidence

266. In his submissions on sanction, Mr Morris suggested that there may have been a misunderstanding about Mr Branford's remarks about the conditions he would want to be in place on a return to work. Mr Morris stated that Mr Branford was only talking about a return to surgery on the NHS and was not considering returning to cosmetic surgery in the private sector at any time in the near future.

267. The Tribunal had regard to its comments at paragraphs 118 to 125 of its determination on impairment, including that:

> *"The Tribunal was particularly concerned about Mr Branford's answers, in his oral evidence on 5 June 2023, about reconstructive and cosmetic surgery.*
> *...*
> *He explained that he was not sure how he would deal with a situation where a person required a single reconstructive breast surgery and then cosmetic surgery on the other breast to attempt to create a symmetry because of his evolved understanding of self-validation and the need for everyone to accept themselves for who they are.*
> *...*
> *The global concern is that on 5 June 2023 Mr Branford told the Tribunal both that he was very safe to return to reconstructive surgery but also that he would need cast iron guarantees of supervision and a package of zero patient contact and close supervision including during surgeries... The Tribunal found this to be inconsistent with his earlier assertion that he was fit to return to surgery."*

268. The Tribunal understood Mr Morris's submission to be that the package of conditions suggested by Mr Branford were being referred to with reference to cosmetic surgery rather than reconstructive surgery only. The Tribunal did not agree that the comments regarding a package of conditions could properly be accepted as being restricted in a binary manner to cosmetic surgery only. Mr Branford's evidence was that he himself considered that if someone had reconstructive surgery on one breast and then the other breast required surgery to attempt to create a symmetry he would consider that operation to be both a reconstructive and a cosmetic procedure within an NHS setting. When Mr Branford was re-examined, he told the Tribunal that in the above situation, he would want to consult his mentor and have that mentor present during the surgery. The Tribunal has already found that this represented a lack of insight into what the problem was as the Allegation was not in relation to surgical competence. For this reason, the Tribunal rejected the submission of

Mr Morris that Mr Branford had been telling the Tribunal that he wanted a mentor present due to having deskilled since March 2020. The Tribunal rejected this because the concerns had related to Mr Branford's inappropriate relationships with patients and never clinical competence during surgical procedures.

269. Mr Branford did not raise in evidence a desire for a mentor to be present in reconstructive surgeries and the concept of a mentor's supervision was not raised until Mr Branford addressed the Tribunal on how he would approach cosmetic surgeries. Mr Branford at no stage in his evidence used the phrase 'deskilling' or words to that effect, nor did he raise having a mentor present during patient consultations or to monitor his patient interaction whether that be social media use or traditional means of communication. This is why the Tribunal had concluded that Mr Branford's insight into his misconduct was lacking.

270. The Tribunal's position remained the same as at the impairment stage in its understanding that Mr Branford was referring to NHS reconstructive surgery quite often involving an element of cosmetic surgery.

Aggravating and mitigating factors

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

a. In terms of the circumstances surrounding the event, the Tribunal determined that Mr Branford's misconduct included sexual misconduct in respect of three patients and abuse of Mr Branford's professional position, which involved predatory behaviour (as accepted by Mr Branford via Mr Morris) and where he had targeted patients. Two of those patients were vulnerable. These were all aggravating factors.

b. Mr Branford had met the three patients in a clinical setting and had sexual contact with them in the clinic.

c. The Tribunal considered that the extent of the harm caused to the three patients was an aggravating factor. It referred to its comments in this regard in the impairment determination.

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

a. XXX

b. The Tribunal noted that there was some insight displayed by Mr Branford. The Tribunal referred to its previous comments on insight within the impairment determination.

c. The Tribunal had regard to the remediation undertaken by Mr Branford, including the actions he has taken to address XXX, and the maintaining professional boundaries course he attended.

d. In respect of previous history, the Tribunal noted that Mr Branford had *"not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC's previous panels or committees".*

e. Mr Branford was of previous good character.

f. The Tribunal took account of the positive testimonials from patients and colleagues, who speak highly of Mr Branford and his work.

g. The Tribunal noted that Mr Branford admitted most of the facts at the hearing and his early acceptance/agreement of the details of the misconduct was such that Patients A to C did not have to give evidence at this hearing, which would have been in relation to explicit sexual matters.

h. The Tribunal was mindful that, while not an immediate acceptance of harm, there was a recognition by Mr Branford of the impact that his actions had had on the three patients, reputation of the profession, and public confidence in plastic surgeons.

No action

273. In coming to its decision as to the appropriate sanction, if any, to impose in Mr Branford's case, the Tribunal first considered whether to conclude the case by taking no action.

274. The Tribunal determined that, in view of the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest to

conclude this case by taking no action. The Tribunal could identify no exceptional circumstances such that it would be appropriate to take no action and, ultimately, that this would not reflect the gravity and nature of the misconduct.

Conditions

275. The Tribunal next considered whether it would be sufficient to impose conditions on Mr Branford's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

276. The Tribunal determined that it would be neither sufficient nor appropriate to direct the imposition of conditions on Mr Branford's registration given the gravity and nature of the misconduct. It also concluded that conditions would have been unworkable.

Suspension

277. The Tribunal then went on to consider whether suspending Mr Branford's registration would be appropriate and proportionate.

278. The Tribunal acknowledged that, as set out at paragraph 91 of the SG, suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbefitting a registered doctor. It also had regard to paragraph 93 of the SG, that:

> *"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..."*

The Tribunal referred to its comments in the impairment determination that *"the risk of repetition was high in this case"*. The Tribunal also referred to its comments in respect of Mr Branford's insight.

279. The Tribunal considered that the following paragraphs of the SG were key to its deliberations:

> *"92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*
>
> *...*
>
> *97. Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> > *a. A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors..."*

280. The Tribunal was mindful of the gravity and nature of the misconduct that it had found. Mr Branford abused the position of trust that he held as Patient A, B, C's treating doctor. He sent multiple inappropriate and/or sexually explicit messages to all three patients via social media and WhatsApp.

281. Mr Branford has admitted in respect of two patients, and the Tribunal found in respect of the third patient, that the purpose of the messaging was to foster an improper emotional attachment. It is clear to the Tribunal from the evidence of Patients A, B and C, that whilst the sexual contact was consensual they all felt that there was an emotional attachment with Mr Branford. The harm that was caused to each patient came about when they realised that there was no such emotional attachment on Mr Branford's part. Two of the patients, Mr Branford recognised, had vulnerabilities.

282. The Tribunal was clear that Mr Branford had caused the three patients significant harm, as outlined in its impairment determination. Whilst the Tribunal accepted that Mr Branford was XXX with all of the mitigation set out above, when weighed against the gravity of this Allegation, Mr Branford's conduct was fundamentally incompatible with continued registration.

283. The Tribunal was of the view that suspension would not be appropriate or sufficient, especially when coupled with its assessment of the nature and gravity of the misconduct, where there was a high risk of repetition, XXX.

284. The Tribunal did not consider that a sanction of suspension, even for a period of 12 months, would sufficiently protect patients, maintain public confidence in the profession, or promote and maintain proper professional standards and conduct for the members of the profession.

Erasure

285. The Tribunal considered whether it would be appropriate and necessary to erase Mr Branford's name from the medical register.

286. The Tribunal considered the following paragraphs of the SG to apply to this case:

> *"108. Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*
>
> *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 fundamentally incompatible with being a doctor.*
> >
> > *b. A deliberate and reckless disregard for the principles set out in Good medical practice and/or patient safety.*
> >
> > *...*
> >
> > *d. Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
> >
> > *...*

> *i. Putting their own interests before those of their patients (see Good medical practice paragraph 1: – 'Make the care of [your] patients [your] first concern' and paragraphs 77–80 regarding conflicts of interest)."*

287. The Tribunal was conscious of the mitigating factors above, and in respect of XXX. It was also careful to balance the aggravating and mitigating factors, and had regard to the principle of proportionality throughout.

288. The Tribunal reiterated its comments on the gravity and nature of the misconduct that it had found. The Tribunal found the sections of the SG headed 'Abuse of professional position', 'Vulnerable patients', 'Predatory behaviour' and 'Sexual misconduct', to be particularly relevant and compelling. The Tribunal agreed with the submission of Mr Brook that paragraphs 143, 146, 147 and 150 were relevant and, additionally, paragraph 148, which states:

> *"More serious action, such as erasure, is likely to be appropriate where a doctor has abused their professional position and their conduct involves predatory behaviour or a vulnerable patient..."*

289. Mr Branford had abused his professional position as a doctor in pursuing sexual relationships with three patients, two of whom - Patients A and B - were vulnerable. Further, the Tribunal noted its earlier comments that:

> *"Mr Branford had acted so as to put patients at unwarranted risk of harm, he had brought the medical profession into disrepute, and had breached a fundamental tenet of the profession. The Tribunal was concerned that Mr Branford was liable to do so in the future too given the high risk of repetition."*

290. In conclusion, the Tribunal directs that Mr Branford's name be erased from the medical register. It concluded that erasure was the appropriate and proportionate sanction and was the only means of adequately protecting the public. Overall, the Tribunal determined that erasure was necessary in terms of the overarching objective: to protect and promote the health, safety and wellbeing of the public; maintain public confidence in the medical profession; and to uphold proper professional standards and conduct for members of the profession.

Determination on Immediate Order - 12/06/2023

291. Having determined to erase Mr Branford's name from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Mr Branford's registration should be subject to an immediate order.

Submissions

292. On behalf of the GMC, Mr Brook applied for the imposition of an immediate order. He referred to paragraphs 172 and 173 of the SG:

> *"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."*

293. Mr Brook referred to the Tribunal's findings of a high level of risk. He submitted that the Tribunal should balance the factors against the interests of the doctor and the wider public interest which may require an immediate order.

294. The Tribunal was informed that XXX, nevertheless the GMC invited the Tribunal to revoke the interim order, setting out that in the circumstances where Mr Branford successfully appeals the findings of this Tribunal, the GMC would make a renewed application to an Interim Orders Tribunal.

295. On behalf of Mr Branford, Mr Morris stated that he did not have any submissions to make about immediate order.

The Tribunal's Determination

296. In making its decision the Tribunal had regard to the SG, including the two paragraphs above and also paragraph 178:

> *"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."*

297. The Tribunal had regard to the gravity and seriousness of its findings, which it has outlined in detail in its previous determinations.

298. In all the circumstances, the Tribunal determined to impose an immediate order of suspension on Mr Branford's registration. The Tribunal was of the view that, due to the seriousness, it would be inappropriate to allow Mr Branford to continue in unrestricted practice before the substantive order takes effect. The Tribunal concluded that this was appropriate and necessary to protect members of the public, in the public interest, and in the best interests of the doctor.

299. This means that Mr Branford'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.

300. The interim order is hereby revoked.

301. That concludes this case.

XXX