Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 01/04/2019 - 16/04/2019
Medical Practitioner’s name: Dr Palaniappan SARAVANAN

GMC reference number: 5184091
Primary medical qualification: MB BS 1990 Dr M G R Medical University

Type of case
Outcome on impairment
New - Misconduct Impaired

Summary of outcome
Erasure
Immediate order imposed

Tribunal:

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<tr>
<th>Legally Qualified Chair</th>
<th>Mr Martin Jackson</th>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Rachel O'Connell</td>
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<td>Medical Tribunal Member:</td>
<td>Professor Irving Benjamin</td>
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| Tribunal Clerk:         | Mr Sewa Singh |
|                        | Ms Emma Saunders (04.04.19) |

Attendance and Representation:

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<th>Medical Practitioner:</th>
<th>Not present and represented</th>
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<td>Medical Practitioner’s Representative:</td>
<td>Ms Sarah Przyblyska, Counsel, instructed by CMS Cameron McKenna Nabarro Olswang LLP</td>
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<tr>
<td>GMC Representative:</td>
<td>Ms Elizabeth Acker, Counsel</td>
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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 - 12/04/2019

Background

1. Dr Saravanan graduated in 1992 at The Madurai Medical College and Madurai Kamaraj University, Tamil Nadu, India. In 1999 he gained a postgraduate qualification of MD in General Internal Medicine from the TN MGR Medical University in India.

2. Dr Saravanan came to the UK in 1999 to pursue higher medical training in Cardiology and in 2001 he qualified with MCRP (UK) from the Royal College of Physicians in London. Dr Saravanan developed a keen interest in translational research and undertook a three year PhD programme in Cardiac Electrophysiology between 2006 and 2009, being awarded a PhD in 2010 at Manchester University.

3. In 2011, Dr Saravanan completed his specialist training and was admitted onto the specialist register of the GMC. He became a Consultant in 2012. In 2016 he was accepted as a Fellow of the Royal College of Physicians (FRCP), UK, and Fellow of the European Society of Cardiology (FESC).

4. Between May 2012 and November 2017, Dr Saravanan was employed by the Arrowe Park Hospital (‘the Hospital’), part of Wirral University Teaching Hospital NHS Foundation Trust (‘the Trust’).

5. The allegations that have led to Dr Saravanan’s hearing are that, whilst working at the Hospital, he behaved in a sexually motivated manner towards five female colleagues, including inappropriate touching. It is alleged that Dr Saravanan’s conduct was sexually motivated and that his fitness to practise is impaired by reason of misconduct.

6. The initial concerns were raised with the GMC by the Trust following an internal investigation undertaken by the Trust into these matters under the Maintaining High Professional Standards (MHPS) procedure.
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The Allegation and the Doctor’s Response

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

Dr A

1. Between 13 February 2017 and 17 February 2017 you acted as the Consultant supervising Dr A, a Foundation Year Doctor, on the Cardiology ward at Arrowe Park Hospital (‘the Hospital’) and:

a. on one or more occasion on 13 February 2017 you put your hand on Dr A’s lower back; To be determined

b. on 14 February 2017 you:

   i. said to Dr A that she ‘looked stunning dressed all in black’, or words to that effect; To be determined

   ii. on one or more occasion:

      a. in the presence of patients put your arm around Dr A’s waist and held it there; To be determined

      b. placed your hand on Dr A’s lower back; To be determined

   iii. during ward rounds with Dr A you stroked the lateral aspect of Dr A’s bottom; To be determined

c. on 15 February 2017 you:

   i. asked Dr A to look at the photograph on her lanyard and said:

      a. ‘it is a very beautiful photograph’ or words to that effect; To be determined

      b. you ‘liked Dr A’s hair like that’ in the photograph or words to that effect; To be determined

   ii. on one or more occasion put your hand under Dr A’s cardigan, over the top of Dr A’s t-shirt; To be determined
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d. On 16 February 2017 you:

i. On one or more occasion, put your hand on Dr A’s lower back; **To be determined**

ii. In the presence of a patient:

a. Put your hand on Dr A’s bottom; **To be determined**

b. Held the centre of Dr A’s buttock cheek with a firm grip; **To be determined**

c. Stroked Dr A’s bottom with one or more of your fingers; **To be determined**

d. Kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient; **To be determined**

iii. In the presence of another patient:

a. Instructed Dr A to kneel on the bed; **To be determined**

b. Held Dr A’s buttock cheek with your hand; **To be determined**

c. Kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient; **To be determined**

e. On 17 February 2017, you:

i. Touched Dr A’s lower back; **To be determined**

ii. Attempted to touch the upper part of Dr A’s bottom. **To be determined**

Dr B
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2. On three separate days between 26 December 2016 and 5 February 2017, you acted as the Consultant supervising Dr B, a Foundation Year Doctor, on the Cardiology ward at the Hospital, and you:

a. on one or more occasion, during ward rounds with Dr B:
   i. put your hand on Dr B’s shoulder; **To be determined**
   ii. stood inappropriately close to Dr B; **To be determined**

b. on one occasion:
   i. put your arm around Dr B’s lower back; **To be determined**
   ii. moved your hand up Dr B’s jumper so it was touching Dr B’s bare skin on her hip; **To be determined**
   iii. left your hand in the position described at paragraph 2 b ii above while Dr B typed; **To be determined**

c. on one occasion, in the presence of a patient, put your hand on Dr B’s knee; **To be determined**

d. on one or more occasion whilst walking alongside Dr B, put your hand on the small of Dr B’s back. **To be determined**

Dr C

3. Between 7 November 2016 and 11 November 2016 you acted as the Consultant supervising Dr C, a Foundation Year Doctor, on the Cardiology ward at the Hospital and you:

a. on one or more occasion during ward rounds with Dr C touched Dr C’s back; **To be determined**

b. on one occasion whilst sitting next to Dr C:
   i. touched Dr C’s lower back with your hand; **To be determined**
   ii. moved your hand round to touch Dr C’s thigh over her clothing; **To be determined**

c. on one occasion in the presence of a patient:
i. put your hand on Dr C’s lower back; **To be determined**

ii. moved your hand down towards Dr C’s bottom. **To be determined**

**Dr D**

4. Between April 2015 and July 2015 you acted as Dr D’s clinical supervisor for her cardiology placement at the Hospital, and you:

a. on one or more occasion touched Dr D’s bottom with the:

   i. back of your hand; **To be determined**

   ii. palm of your hand; **To be determined**

b. on one occasion stroked the hair from Dr D’s forehead. **To be determined**

**Dr E**

5. Between November 2014 and April 2015 you acted as Dr E’s clinical supervisor for her cardiology placement at the Hospital and you:

   *Amended under with Rule 17(6)*

a. on one or more occasion:

   i. stood inappropriately close to Dr E; **To be determined**

   ii. put your hand on Dr E’s bottom; **To be determined**

   iii. moved your hand back and forth on Dr E’s bottom; **To be determined**

b. on one occasion in the presence of a patient put your arm around Dr E and:

   i. touched Dr E’s:

      a. lower back; **To be determined**

      b. bottom; **To be determined**
ii. stood so close to Dr E that the front of your body touched Dr E’s back; **To be determined**

c. on one occasion in the presence of a patient knelt down and stroked Dr E’s leg from her ankle upwards to her mid-calf. **To be determined**

6. Your conduct as described at paragraphs 1, 2, 3, 4 and 5 above was sexually motivated. **To be determined**

**The Admitted Facts**

8. No facts were admitted.

**The Facts to be Determined**

9. The Tribunal was required to determine whether the facts alleged, as set out in paragraphs 1 – 5 of the Allegation, occurred; and, if so, whether Dr Saravanan’s conduct was sexually motivated.

**Factual Witness Evidence**

10. The Tribunal received written statements and oral evidence on behalf of the GMC from the following witnesses:

   - Dr A; witness statement dated 26 February 2018;
   - Dr B; witness statement dated 12 March 2018;
   - Dr C; witness statement dated 18 February 2018;
   - Dr D; witness statement dated 17 March 2018;
   - Dr E; witness statement dated 23 May 2018;
   - Dr F, Cardiology Speciality Trainee, witness statement dated 19 March 2018;
   - Ms G, Ward Clerk, witness statement dated 1 May 2018;
   - Ms J, Deputy Ward Sister, witness statement dated 14 March 2018;
   - Dr I, General Practitioner (ST1), witness statement dated 22 January 2019;
   - Ms H, Deputy Ward Manager, witness statement dated 22 April 2018;
   - Ms K, Clinical Support Worker, witness statement dated 5 April 2018;
   - Ms L, Senior Ward Sister, witness statement dated 24 May 2018;
   - Dr N, ST5 Registrar, witness statement dated 3 February 2019.

11. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

   - Dr B’s partner, dated 14 January 2019;
   - Mr M, Senior Sarcoma Fellow and Orthopaedic surgeon, dated 9 February 2019.
12. Dr Saravanan provided his own witness statement, dated 2 April 2019, and also gave oral evidence via videolink.

**Documentary Evidence**

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

- Statements made by Drs A – E to the Trust during the Trust investigation;
- Two testimonials from Dr Saravanan’s colleagues at his current place of work in India attesting to his good clinical work. Neither raised any concerns about Dr Saravanan’s clinical practice;
- Witness statements from Ms O, Clinical Support Physiologist, dated 5 March 2019; Dr P, dated 19 March 2019; and Dr Q dated 21 March 2019, submitted on behalf of Dr Saravanan.

**The Tribunal’s assessment of the witnesses**

14. **Dr A**: The Tribunal found Dr A to be a reliable witness. She was straightforward and consistent. She did her best to recall the events and conceded matters put to her in cross examination, including that she had discussed Dr Saravanan with a colleague. The Tribunal noted she provided a detailed account of events in the Trust statement she wrote three weeks after her time on the ward.

15. **Dr B**: The Tribunal found Dr B to be a reliable witness. Her evidence was consistent, clear, measured and fair. She did her best to assist the Tribunal.

16. **Dr C**: The Tribunal found Dr C to be a reliable witness. Her evidence was consistent throughout and she did her best to assist the Tribunal.

17. **Dr D**: The Tribunal found Dr D to be a reliable witness. Her evidence was consistent. She told the Tribunal she was aware Dr Saravanan had been subject to disciplinary proceedings. She did her best to assist the Tribunal. She said that during the ward rounds with Dr Saravanan he would touch her on the bottom, she was quite ‘shocked’ and felt extremely uncomfortable.

18. **Dr E**: The Tribunal found Dr E to be a reliable witness. She told the Tribunal that she had heard about Dr Saravanan’s behaviour from other colleagues. She gave a very graphic, clear and consistent description of events, and used such terms as ‘sick’, ‘terrified’, ‘trapped’ to describe how the events made her feel.

19. The Tribunal found Dr F, Dr I, Ms G, Ms J, Dr N, Ms H, Ms K and Ms L to be reliable witnesses. Their evidence was helpful and clear and they did their best to assist the Tribunal. They conceded where they could not recall the events.
20. **Dr Saravanan**: His account was consistent in denying any intentional sexually motivated touching. Some of his evidence was muddled around aspects of using the hand held ultrasound scanner called a v-scan. The Tribunal took into account that his recollection of the events in relation to some of the junior doctors may have been uncertain due to the passage of time, and also due to the number of junior doctors he would have had dealings with and taught during his time at the Hospital.

21. The Tribunal found that Dr Saravanan frequently did not answer questions put to him directly. The Tribunal felt that what Dr Saravanan told the Tribunal in his oral evidence about the events was a rehearsal of what he thought would have happened, and not a direct memory of what actually happened in each of the matters before the Tribunal.

22. The Tribunal was not persuaded by his evidence of addressing junior doctors as ‘my mate’ or ‘my dear’ because he could not remember their first names. This was not agreed by the GMC witnesses. Dr F said he was called ‘XXX’ by Dr Saravanan. There was evidence Dr Saravanan addressed junior female doctors by ‘my dear’ or ‘my darling’ but that he did not call male junior doctors by ‘my mate’.

23. In his evidence, Dr Saravanan described his background and the circumstances of his upbringing. He said that he had always been a tactile person. The Tribunal did not accept Dr Saravanan’s assertion that he was generally tactile and that was the reason why he would touch his colleagues. The Tribunal heard from independent witnesses who saw Dr Saravanan touching others, but they only noticed him touching junior female doctors and not male or more senior female colleagues or nurses or Ward Clerks.

24. In relation to the use of v-scans, the Tribunal was not persuaded by his account that he offered all trainees the opportunity to learn to use v-scan equipment if the trainee wished to be taught unless they did not wish to specialise in cardiology. His explanation was not supported by the evidence of witnesses that the use of the v-scan equipment was also of value in other departments of the Hospital. Further, their evidence was supported by the document circulated by Dr Saravanan’s defence team entitled ‘One Trust, one vision: excellence in patient care’ which relates to first use of portable ultrasound in medical education at King’s College Hospital NHS Foundation Trust in 2015.

25. Drs A, B C and E all described occasions when Dr Saravanan touched them whilst using the v-scan. They described Dr Saravanan as standing close to them with his right hand on theirs guiding the scanner probe. He placed himself in a position in which he could touch them on the back and bottom. In the case of Dr A, she said he told her to kneel on the patient’s bed and lean over the patient.
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26. The Tribunal accepted that a trainer may need to place their hand on a trainee’s hand to guide them when using the probe so as to learn how to get the best image on the scanner. It did not accept it was necessary for a trainer to stand so close to the trainee that their bodies were in physical contact. Dr F gave evidence that it was not necessary for the trainer to stand very close to the trainee.

27. Dr Saravanan’s evidence about the training techniques was undermined by the evidence of other witnesses. They said that they had never seen a doctor kneel on the bed to perform a v-scan procedure, although some of Dr Saravanan’s witnesses said it was possible a user of the v-scan may have to support themselves by resting one knee on the patient’s bed whilst leaning over them.

28. In relation to the evidence about Dr A crying, as asserted by Dr Saravanan, following the incident with the irate patient, the Tribunal found Dr Saravanan’s account to be unconvincing. Dr A in her evidence was clear that although she was ‘shocked’ by the incident, she was not upset and did not cry.

29. The Tribunal found Dr Saravanan’s account about needing to check Dr A had the correct ID badge to be implausible. Dr A provided a copy of her badge to the Tribunal. It showed a shortened version of her first name as maintained by Dr A, and not a longer name as claimed by Dr Saravanan.

The Tribunal’s Approach

30. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Saravanan 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.

31. The Tribunal bore in mind it needed to consider each part of the Allegation separately. However, whilst examining the evidence, a pattern of behaviour by Dr Saravanan did emerge, although the Tribunal felt that was more relevant to determining whether his conduct, where found proved, was sexually motivated.

32. The Tribunal also considered whether the accounts given by Drs A – E could have been unconsciously influenced by prior knowledge of Dr Saravanan, or by what they heard from other complainants. The Tribunal considered this unlikely, given that a number of the complainants did not know each other, or speak to each other or to anyone else before they were interviewed as part of the Trust investigation.

The Tribunal’s Analysis of the Evidence and Findings
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33. The Tribunal considered the facts in dispute with regard to each paragraph of the Allegation.

34. Before considering the specific sub-paragraphs of the Allegation, the Tribunal considered the stem of paragraphs 1 – 5. It noted that no argument had been advanced by Dr Saravanan or his defence team that he was not the Consultant supervisor (Drs A – C) or the clinical supervisor (Drs D – E) on the specific dates as set out in paragraphs 1 – 5 of the Allegation.

35. The Tribunal therefore found the stems of paragraphs 1 – 5 proved as matters of fact.

Dr A

1. Between 13 February 2017 and 17 February 2017 you acted as the Consultant supervising Dr A, a Foundation Year Doctor, on the Cardiology ward at Arrowe Park Hospital (‘the Hospital’) and:
   a. on one or more occasion on 13 February 2017 you put your hand on Dr A’s lower back;

36. In his written and oral evidence, Dr Saravanan told the Tribunal that although he could not recall doing so, owing to his tactile nature, it was possible that he put his hand on Dr A’s lower back on 13 February 2017.

37. The Tribunal noted that in paragraph 2 of her statement to the Trust dated 7 March 2017, Dr A stated:

   ‘Only Dr. Saravanan and I conducted the ward round. During the ward round he was placing his hand on my lower back ....’

38. In paragraph 5 of her witness statement dated 26 February 2018, Dr A stated:

   ‘Over the course of the week, Dr Saravanan touched me inappropriately on a number of occasions. On Monday, he put his hand on my lower back, ...’

39. Dr A maintained this throughout her evidence to the Tribunal.

40. The Tribunal took into account that Dr A’s statement to the Trust was dated 7 March 2017 (only three weeks after the alleged incident). It was of the view that Dr A’s recollection of the events would have been fresh in her mind at the time as it was so close to the date of the alleged incident. Further, the Tribunal took into account that her statement to the Trust was very clear and detailed. Dr Saravanan
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on the other hand could not recall the alleged incident but accepted that it could have occurred.

41. In light of the evidence before it, the Tribunal accepted Dr A’s version of the events and it therefore found paragraph 1(a) of the Allegation proved.

   b. on 14 February 2017 you:
      
      i. said to Dr A that she ‘looked stunning dressed all in black’, or words to that effect;

42. In his written and oral evidence, Dr Saravanan denied saying what was alleged in this particular. He told the Tribunal that he asked Dr A ‘is black your favourite colour?’ because she was wearing a black dress on consecutive days and had said that it suited her.

43. In paragraph 4 of her statement to the Trust, Dr A stated:

   ‘The second ward round took place in Tuesday morning. A medical student joined the ward round about half way through, for around 1 hour. For the rest of the round there was only myself and Dr Saravanan present. As the start of this round Dr Saravanan told me that he thought I ‘looked stunning dressed all in black’. …’

44. In paragraph 12 of her statement dated 26 February 2018, Dr A stated:

   ‘During the week, Dr Saravanan also made some comments to me that I felt were inappropriate. On Tuesday 14 February 2017, I wore a black roll-neck jumper, a dark grey skirt and tights and he told me that I ‘looked stunning dressed all in black’.’

45. The Tribunal had regard to paragraph 5 of Dr I’s statement dated 22 January 2019. In this she stated:

   ‘I asked her how her day was and she disclosed to me that she was upset. She said that the consultant she had been working with that day on cardiology had been inappropriate to her. I do not recall her telling me the name of the doctor. She said that he’d made comments to her of a sexual nature, which had made her feel uncomfortable. She said that he had made comments in relation to her appearance, and I think she mentioned that he said she looked ‘ravishing’, but I don’t recall any of the specifics. I hadn’t seen her in a while and I vividly remember her being shocked and quite upset. This was the first time I had heard of the doctor.’
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46. The Tribunal noted that Dr I did not refer to the words alleged in this particular. It also noted that this was not challenged by Dr Saravanan’s defence. The Tribunal concluded, based on the evidence before it, this was supportive evidence for the GMC case on this point. The Tribunal decided it was more likely that Dr Saravanan did say ‘looked stunning dressed all in black’, or words to that effect. It therefore found paragraph 1(b)(i) of the Allegation proved.

ii. on one or more occasion:

a. in the presence of patients put your arm around Dr A’s waist and held it there;

47. The Tribunal however had regard to paragraph 6 of Dr A’s statement to the Trust in which she stated:

‘When reviewing one patient, the patient was sat in the chair next to their bed. Dr Saravanan and I sat down on the patient’s bed with myself closest to the patient. During this time Dr Saravanan put his arm around my waist. I felt this was highly inappropriate but was unsure what to say so said nothing. ...’

48. In paragraph 9 of her statement dated 26 February 2018, Dr A stated:

‘On the Tuesday morning, 14 February 2017, I had gone to see a patient with Dr Saravanan. We went into the cubicle and the patient was sat in a chair next to the bed and Dr Saravanan and I sat on the patient’s bed next to each other at a 90 degree angle to the patient. As soon as we sat down on the bed, Dr Saravanan put his arm around my waist and held it there. He didn’t say anything as he did it, as he was talking to the patient.....’

49. The Tribunal noted that in his written and oral evidence, Dr Saravanan denied intentional contact as alleged. However, during cross examination, Dr Saravanan said that it may have been accidental but was not intentional.

50. The Tribunal decided that it preferred Dr A’s evidence. It noted the action described by Dr A was a deliberate one. It did not consider this could have been unintentional. It concluded therefore that it was more likely that Dr Saravanan did put his arm around Dr A’s waist and held it there the presence of patients. The Tribunal noted that the particular alleges ‘in the presence of patients’ and the evidence before it suggests it occurred in the presence of one patient. However, the Tribunal considered that as the incident took place on a ward, it was correct for it to be described as ‘in the presence of patients.’

51. It found paragraph 1(b)(ii)(a) of the Allegation proved.

b. placed your hand on Dr A’s lower back;
52. In paragraph 5 of her statement to the Trust, Dr A stated:

‘Throughout Tuesday, Dr Saravanan continued to place his hand on my lower back. This occurred each time I stood at the laptop documenting the notes from the ward round of around 16 patients.’

53. In paragraphs 7 of her statement dated 26 February 2018, Dr A stated:

‘Every time we did a ward round, in between patients I would document on the laptop, which was on a trolley on wheels. I tried to stand away from Dr Saravanan when I was typing, but I couldn’t as he would stand right next to me and would put his hand on my lower back. On more than one occasion, I ended up typing with my hands at a 45 degree angle to the keyboard to try and move out the way of Dr Saravanan. I don’t know how many times it happened, but it seemed that every time I was standing at the laptop he would touch me in some way.’

54. During her oral evidence, Dr A demonstrated how she had stood at a 45 degree angle to avoid contact with Dr Saravanan and she maintained her evidence about this throughout.

55. In his written and oral evidence, Dr Saravanan stated:

‘I accept that this is possible owing to my tactile nature. I cannot formally admit the charge because I do not remember whether it happened or not. I deny touching with sexual motive.’

56. The Tribunal had regard to paragraph 6 of Ms H’s statement dated 22 April 2018 in which she stated:

‘On more than one occasion, I saw Dr Saravanan put his hand on [Dr A’s] lower back and around her shoulder. He would put his hand on her lower back where her knicker line would end and move it from side to side. ....’

57. The Tribunal also took into account Ms L’s statement to the Trust dated 3 April 2017 in which she stated ‘There has been a few episodes I have witnessed. On a ward round where there were 8 or 9 people Dr Saravanan would earmark [Dr A] for attention. He would select to go and stand next to her and it did appear to make her feel uncomfortable.’

58. The Tribunal was of the view that the evidence of Ms H and Ms L corroborated Dr A’s account. The Tribunal decided it preferred Dr A’s account and determined that it was more likely that Dr Saravanan placed his hand on Dr A’s lower back. It therefore found paragraph 1(b)(ii)(b) of the Allegation proved.
iii. during ward rounds with Dr A you stroked the lateral aspect of Dr A’s bottom;

59. The Tribunal had regard to Dr A’s statement to the Trust. In paragraph 7 she stated:

‘During Tuesday’s ward round, Dr Saravanan also began to stroke the lateral aspect of my bottom with one or two fingers. ….’

60. In his written and oral evidence, Dr Saravanan denied intentional touching and stated ‘... Accidental contact while standing close to look at results in a small laptop possible.’

61. The Tribunal decided that it preferred Dr A’s clear account of the events. It determined that was more likely that Dr Saravanan stroked the lateral aspect of Dr A’s bottom. It therefore found paragraph 1(b)(iii) of the Allegation proved.

c. on 15 February 2017 you:

i. asked Dr A to look at the photograph on her lanyard and said:

62. In considering this particular, the Tribunal noted that there is no dispute that Dr Saravanan asked to look at Dr A’s photograph on her lanyard. In his own evidence, Dr Saravanan admitted asking about the badge but denied the alleged comments as set out in the following particulars.

a. ‘it is a very beautiful photograph’ or words to that effect;

63. In his oral evidence to the Tribunal, Dr Saravanan accepted that he asked to look at Dr A’s ID badge. He explained he was concerned that the photo ID on the badge was a little faded and the name was not that of Dr A, and he wanted to make sure it was Dr A’s ID badge. He went on to explain an instance some time ago when a doctor who had treated a patient during a night shift could not be identified from the name provided by the patient. He said that the first name on Dr A’s badge was longer than the name she used, and the photograph on the ID badge was also different to Dr A’s appearance.

64. In her evidence, Dr A explained that the photo on the ID badge was different in that her hair was different to that when she was working with Dr Saravanan. She also confirmed that the name on the ID badge was the shorter version of her official name. However, she went on to say that when Dr Saravanan took the lanyard from
her to inspect her ID badge, he commented that it was a beautiful photograph and that he liked her hair as it was in the photograph.

65. The Tribunal noted in her statement to the Trust, Dr A stated:

‘On Wednesday Dr Saravanan asked if he could look at the photograph on my ID badge. ........... He initially picked up my badge which was on a lanyard around my neck. He examined the photo and then took my badge out of the badge holder to look at the photograph more closely. He told me it was very beautiful and that he liked my hair like this. My hair is straight in the picture and on this particular day I had not straightened my hair so it was wavy. ...’

66. The Tribunal was provided with a copy of Dr A’s ID badge in which her hair was straight.

67. The Tribunal had regard to paragraph 14 of Dr A’s statement to the GMC in which she explained what took place, as described above and in her statement to the Trust.

68. The Tribunal was not persuaded by Dr Saravanan’s explanation. The Tribunal preferred Dr A’s version, given the level of detail in her account which was consistent and because her account to the Trust was only a few weeks after the event, when what occurred would have been fresh in her mind.

69. It determined that, on the balance of probabilities, Dr Saravanan did say ’It is a very beautiful photograph’ or words to that effect. It found paragraph 1(c)(i)(a) of the Allegation proved.

   b. you ’liked Dr A’s hair like that’ in the photograph or words to that effect;

70. Having determined that it preferred Dr A’s version of the events, the Tribunal determined that, on the balance of probabilities, it is more likely that Dr Saravanan said that he ’liked Dr A’s hair like that’ or words to that effect. It therefore found paragraph 1(c)(i)(b) of the Allegation proved.

   ii. on one or more occasion put your hand under Dr A’s cardigan, over the top of Dr A’s t-shirt;

71. In paragraph 9 of her statement to the Trust, Dr A stated:

‘On Wednesday Dr Saravanan continued to place his hand on my lower back. I happened to be wearing a t-shirt which was tucked into a skirt with a cardigan over the top. Dr Saravanan placed his hand under my cardigan on top of my t-shirt. ..’
72. In his evidence, Dr Saravanan denied intentional contact. He said that he had no specific recollection of this and that it was a question of perception. He said that he does not realise that he touches people a lot.

73. The Tribunal preferred Dr A’s account which is clear and detailed. Her evidence is consistent throughout her statements to the Trust and to the GMC, and in her oral evidence to this Tribunal. The Tribunal considered it was highly unlikely that the contact on this occasion could have happened unintentionally or accidentally, as claimed by Dr Saravanan.

74. The Tribunal determined that, on the balance of probabilities, it was more likely that Dr Saravanan, on one occasion, put his hand under Dr A’s cardigan, over the top of her t-shirt. It therefore found paragraph 1(c)(ii) of the Allegation proved.

d. on 16 February 2017 you:

i. on one or more occasion, put your hand on Dr A’s lower back;

75. In her statement to the Trust, Dr A stated:

‘... Dr Saravanan continued to touch my lower back whilst I was documenting, whilst stood in the corridor of the ward. ....’

76. The Tribunal had regard to paragraph 6 of Ms G’ statement. She stated:

‘One particular incident was in February/March 2017 (roughly) I remember was with a junior doctor I now know to be [Dr A]. Ward 32 is quite a long ward that goes into an ‘L’ shape at the bottom and I remember seeing Dr Saravanan stood at the bottom of the ward with [Dr A] looking at a portable computer. He had his arm around her waist, pulling her into him. I remember looking at him in utter disgust because [Dr A] looked so uncomfortable. I had walked over to them to pass on a message but I couldn’t because I felt too uncomfortable. [Dr A] rolled her eyes at me and I just shook my head and walked away. I have seen Dr Saravanan act similarly with other female junior doctors, but not as intense as it was with [Dr A]. I think they just put up with it because he was their boss.’

77. It also had regard to paragraph 6 of Ms H’ statement in which she stated:

‘On more than one occasion, I saw Dr Saravanan put his hand on [Dr A’s] lower back and around her shoulder. He would put his hand on her lower back where her knicker line would end and move it from side to side. ....’
78. In paragraph 5 of his statement, Dr F stated:

‘…. Whilst having coffee, [Dr A] mentioned something to the effect of Dr Saravan being quite ‘touchy-feely’ She said that when they were moving from one patient to another, he would put his hand on her lower back and guide her. ….’

79. In his evidence, Dr Saravan accepted that it was possible he touched Dr A’s lower back due to his tactile nature but denied touching with sexual motive.

80. The Tribunal accepted Dr A’s account, which was clear and consistent. It determined that, on the balance of probabilities, Dr Saravan did on one or more occasion, put his hand on Dr A’s lower back. It therefore found paragraph 1(d) (i) of the Allegation proved.

   ii. in the presence of a patient:

   a. put your hand on Dr A’s bottom;

   b. held the centre of Dr A’s buttock cheek with a firm grip;

   c. stroked Dr A’s bottom with one or more of your fingers;

   d. kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient;

81. The Tribunal considered paragraphs (ii)(a – d) together.

82. In paragraph 14 of her statement to the Trust Dr A stated:

‘… For the duration of the scan Dr Saravan kept his hand on my bottom. He held the centre of my left buttock cheek with a firm grip, every now and the [n] stroking with his index finger. This lasted for roughly 5 minutes for the duration of the v scan. …’

83. In paragraph 10 of her statement to the GMC, Dr A stated:

‘I had the probe in my right hand and reached around to the left side of the patient to scan their chest. Dr Saravan held the computer monitor in his right hand and put his left hand on my bottom and began stroking it with his fingers. I think it would have been his index and middle finger that he used.’
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84. In his evidence, Dr Saravanan denied this. He told the Tribunal that whilst Dr A was performing the v-scan, he would have held the monitor in his left hand as he was standing to the left of Dr A, slightly behind her. He said that whilst he may have been in close proximity to her, there was no way in which he could have touched her bottom as his right hand would have been engaged over Dr A’s hand to assist her in the use of the probe to find good images. However, the Tribunal did not accept his account.

85. It was of the view that Dr A’s evidence was consistent and very detailed throughout, during her Trust interview, her GMC statement and her oral evidence to this Tribunal. It therefore preferred her version of events.

86. The Tribunal therefore concluded that, on the balance of probabilities, Dr Saravanan did put his hand on Dr A’s bottom; hold the centre of Dr A’s buttock cheek with a firm grip; stroke Dr A’s bottom with one or more of his fingers; and kept his hand on Dr A’s buttock cheek while Dr A performed a scan on the patient.

87. The Tribunal found paragraphs 1(d)(ii)(a – d) of the Allegation proved.

iii. in the presence of another patient:

a. instructed Dr A to kneel on the bed;

b. held Dr A’s buttock cheek with your hand;

c. kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient;

88. The Tribunal considered paragraphs (iii)(a – c) together

89. The Tribunal had regard to paragraphs 15 and 16 of Dr A’s statement to the Trust, in which she said:

‘The second patient was considerably larger and I felt that I would struggle to reach across to the left side of their chest with them in the position described above. I voiced this concern to Dr Saravanan and suggested that I may be better situated round the other side of the bed. He told me that I would not get as good an image due to the different angle. He told me to kneel on the patient’s bed. At this point I felt I had voiced my concerns about this and they were disregarded. I felt under immense pressure to do as he instructed and to kneel on the bed.’

‘I found myself knelt on the patient’s bed, bent forward and leaning around them to reach the left side of their chest. The entire time I tried to find the image, Dr Saravanan had his hand on my bottom. He had a similar firm grip
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as detailed above. He held my left buttock cheek in his left hand. At this time I was wearing a pencil skirt with a turtle neck t-shirt tucked into the skirt. As I bent over the skirt was relatively tight across my bottom at this point. I was mortified and did not know what to do. I never thought I would be in such a compromising position in the workplace. I felt sick and wanted this to be over as soon as possible. I tried desperately to quickly find the desired image. However, having only performed one v-scan before my level of skill was poor. In essence, I was trying to quickly conduct the scan whilst being assaulted, but I was unable to quickly get the image to stop being in that position.’

90. In paragraph 11 of her statement to the GMC Dr A stated:

‘On a further occasion which was on the same day, Dr Saravanan and I went to see the next patient on the ward shortly after performing the V-scan. The previous patient was quite slender, so I could reach round quite easily from their right side to reach their left side with the probe. However, the second patient was quite large and I thought it would be a struggle to reach over them, so I asked Dr Saravanan whether I should go and stand around the other side of the bed. He said that the quality of image wouldn’t be as good and that I should kneel on the patient’s bed and reach over. As soon as I knelt on the bed and reached over the patient, Dr Saravanan put his hand on my bottom and kept it there the whole time I was performing the scan. I was mortified.’

91. In his evidence, in relation to (a) above, Dr Saravanan told the Tribunal that Dr A was struggling to reach the left side of the patient’s chest. He said that Dr A asked him what she should do and that he gave her several options including going to the other side but in order to scan from the other side, she would need to be an expert as the scanning needed to be done with the left hand. He said that Dr A asked if she could kneel on the patient’s bed and he agreed that was acceptable given the circumstances. In relation to (b) above, Dr Saravanan denied intentionally touching Dr A’s bottom. In relation to (c) above, Dr Saravanan denied intentional contact.

92. The Tribunal has already found the allegation in respect of the previous patient proved. It considered that it was inconceivable that Dr A would have put herself in what she described as an uncomfortable position given Dr A’s evidence in relation to the previous patient. It was of the view that had Dr Saravanan offered Dr A the options, as he asserted he had, Dr A would most likely have taken the option to go to the other side of the bed as this was what she had already suggested doing. The Tribunal determined it preferred Dr A’s evidence.

93. It therefore found, on the balance of probabilities, that it was more likely that Dr Saravanan instructed Dr A to kneel on the bed; held Dr A’s buttock cheek with his
hand; and kept his hand on Dr A’s buttock cheek while she performed a scan on the patient.

94. The Tribunal found paragraphs 1(d)(iii)(a – c) of the Allegation proved.

   e. on 17 February 2017, you:

   i. touched Dr A’s lower back;

   ii. attempted to touch the upper part of Dr A’s bottom.

95. The Tribunal considered paragraphs 1(e)(i) and (ii) together.

96. In paragraph 22 of her statement to the Trust, Dr A stated:

   ‘I was late to attend the Ward on Friday as I was on-call so had attended the
9am handover until roughly 9.30am. On Friday there was me, Dr Saravanan,
Dr F and a medical student present on the ward round. During this ward
round Dr Saravanan tried to split the ward round so that I would be with him
and Dr F would start with patients from the other end of the ward. Fortunately there were not enough laptops so this was not possible. For this
ward round I ensured that I was not stood in close proximity to Dr
Saravanan. This was much easier to achieve with Dr F being present on the
round. There was still one incident where I had perched on a window ledge. I
did this deliberately to ensure that Dr Saravanan would not touch my bottom.
Despite me standing with my back and bottom against the window ledge, he
still managed to touch my lower back and tried to touch the upper part of my
bottom.’

97. The Tribunal had regard to paragraph 10 of Dr F’s statement in which he
stated:

   ‘During the ward round, I saw Dr Saravanan guide [Dr A] round from bay to
bay with his hand on the small of her back. If they were walking down the
corridor, when they got to the next bay, he would put his hand on her back to
steer her around the corner into the bay. ...’

98. The Tribunal considered this provided some corroboration of the events that
occurred on the day.

99. In his evidence, in relation (i) above, Dr Saravanan accepted that he may
have touched Dr A’s lower back due to his tactile nature. In relation to (ii) above, Dr
Saravanan denied intentional contact.
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100. However, on the evidence before it, and in the circumstances, the Tribunal determined that, on the balance of probabilities, it was more likely that Dr Saravanan touched Dr A’s lower back and attempted to touch the upper part of her bottom.

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

Dr B

2. On three separate days between 26 December 2016 and 5 February 2017, you acted as the Consultant supervising Dr B, a Foundation Year Doctor, on the Cardiology ward at the Hospital, and you:

a. on one or more occasion, during ward rounds with Dr B:

i. put your hand on Dr B’s shoulder;

102. In her statement to the Trust in response to questions 6 - 8, Dr B stated:

‘He is a touchy feely person. I did work with him on boxing day I think, he is very nice, but he can be a bit touchy feely. The first time I worked with him, I didn’t really notice anything, but the 2nd time, I noticed he was touchy feely, not in my personal space, but just recall him making contact with me.

‘He would put his hand on my shoulder when doing the rounds, I wouldn’t say it was a sexual thing. There was one time when I was typing up at the computer, and he was kneeling down next to me. He put his arm around me and put his hand on my hip. Gradually his hand moved and was then on my bare skin. I felt uncomfortable with this, but didn’t say anything to him’

‘I think Sister may have seen it as she asked me if I was ok. …’

103. In paragraph 9 of her statement to the GMC, Dr B stated:

‘If I sat at a desktop computer, Dr Saravanan would stand behind me to dictate as I typed and would put his hand on my shoulders. He would always stand quite close. …’

104. In his evidence, Dr Saravanan accepted that this was possible owing to his tactile nature.

105. Given the clear evidence from Dr B, the Tribunal therefore determined that, on the balance of probabilities, Dr Saravanan did put his hand on Dr B’s shoulder.
106. It found paragraph 2(a)(i) of the Allegation proved.

   ii. stood inappropriately close to Dr B;

107. The Tribunal had regard to Dr B’s responses to questions put to her at the Trust interview, as set out above. It also had regard to paragraph 9 of her statement to the GMC in which she stated:

   ‘....He would always stand quite close. On the second time I worked with him, I think it was Saturday 4 February 2017, I was sat down at a desktop computer down one of the wards and Dr Saravanan was trying to teach me about echo scans of the heart. He was asking me to click on some patient images and whilst I was sat at the computer, he knelt down on the floor to the left of me and put his right arm around my lower back. I had a jumper on that was a bit loose and he slowly put his hand up it so that it was touching my bare skin on my hip just above my trousers. He didn’t move his hand, he just placed it on my skin and kept it still, but he left it there the whole time I was typing. I can’t remember how long he left it there for, but it was long enough that it felt uncomfortable. It wasn’t just a graze. I remember Dr Saravanan asking me to click on something, but I couldn’t because all I could think about what his hand was on me.’

108. The Tribunal had regard to paragraph 6 of Ms J’s statement dated 14 March 2018 in which stated:

   ‘During the ward round, I noticed that Dr Saravanan was in very close proximity to [Dr B] and was invading her personal space. …’

109. In his evidence, Dr Saravanan accepted that he may have stood close to Dr B owing to the necessity to use a small 14 inch laptop trolley but he could not recall whether it happened or not.

110. On the evidence before it, the Tribunal determined that, on the balance of probabilities, it was more likely that Dr Saravanan stood inappropriately close to Dr B.

111. It found paragraph 2(a)(ii) of the Allegation proved.

   b. on one occasion:

      i. put your arm around Dr B’s lower back;

      ii. moved your hand up Dr B’s jumper so it was touching Dr B’s bare skin on her hip;
iii. left your hand in the position described at paragraph 2 b ii above while Dr B typed;

112. The Tribunal considered paragraph 2b(i – iii) together.

113. The Tribunal had regard to Dr B’s response as set out in paragraph 8 of her Trust interview. It also had regard to paragraph 9 of her statement to the GMC as above.

114. The Tribunal also took into account paragraph 6 of Ms J’s statement dated 14 March 2018 in which she stated:

‘...On several occasions during the ward round, he had his hand on the small of her back and also whenever [Dr B] was typing up the ward round notes on the mobile computers on trolleys he would put his hand on her back. At one point, [Dr B] moved to one of the static computers outside one of the bays and sat down on a chair at the desk. Dr Saravanan knelt down beside her to her left and put his right arm around her and his hand under the waistband of her jumper. When she got up to move away from the computer, Dr Saravanan had his hand on her bottom as they both walked into a bay. [Dr B] looked very tense and uncomfortable throughout the whole ward round and I was shocked by what I saw.’

115. In paragraph 7 Ms J stated:

‘Around 30 minutes to an hour later, [Dr B] went into the store room to collect some equipment to take blood from a patient. I followed her in and asked her if she was okay. I said that she should really speak to Dr Saravanan and tell him to back off, ...’

116. In his evidence, in relation to (i) above, Dr Saravanan accepted that this was possible owing to his tactile nature. In relation to (ii) and (iii) he denied intentional contact.

117. However, the actions described by Dr B and Ms J were, in the Tribunal’s opinion, deliberate. The Tribunal also noted that Ms J was concerned enough that she spoke to Dr B thirty minutes later and asked her if she was okay.

118. The Tribunal was of the view that, on the balance of probabilities, it was more likely that what was alleged in the particular occurred in that Dr Saravanan put his arm around Dr B’s lower back; moved his hand up Dr B’s jumper so it was touching Dr B’s bare skin on her hip; and left his hand in the position described at (ii) above while Dr B typed.

119. The Tribunal therefore found paragraph 2(b)(i – iii) of the Allegation proved.
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c. on one occasion, in the presence of a patient, put your hand on Dr B’s knee;

120. In response to a question asked of her at the Trust interview, Dr B stated:

‘Once he showed me how to do a bedside echo, he did it to the patient, and then asked me to come and have a go to get the probe in the right place. He put his hand on my knee. It didn’t advance anyway, but obviously this has stuck in my memory’

121. In paragraph 14 of her statement to the GMC, Dr B stated:

‘On another occasion, I think it was the Sunday 5th February, a patient needed a V-scan (a small portable ultrasound scanner that can be used at the bedside) of their heart. To do the scan, the patient lies on the bed on their left side and you sit behind them and put the probe on the left hand side of their chest. I sat on the edge of the bed, the patient had their back to me, and Dr Saravanan knelt on the floor explaining to me what to do. When he was knelt down, he put his hand on my knee. He didn’t advance it, but he held it there for too long and it didn’t feel very nice. It felt like Dr Saravanan was taking advantage of the fact that I was a junior, as I was an FY1 at the time. It made me want to get the ward round over and done with so that I could leave.’

122. In his evidence, Dr Saravanan denied intentional contact.

123. However, based on the evidence before it, the Tribunal concluded that, on the balance of probabilities, it was more likely that Dr Saravanan put his hand on Dr B’s knee in the presence of a patient.

124. It therefore found paragraph 2(c) of the Allegation proved.

d. on one or more occasion whilst walking alongside Dr B, put your hand on the small of Dr B’s back.

125. In paragraph 7 of her statement to the GMC, Dr B stated:

‘I remember on one of the mornings I was working with him, I can’t remember which one, but as we walked out of the handover room, he had his hand on the small of my back. I remember thinking that it was a bit much and that he was quite ‘touchy feely’. I can’t remember how many times this happened, but I know it happened on at least one of the three handovers.’
126. The Tribunal had regard to paragraph 6 of Ms J’s statement in which she stated:

‘On several occasions during the ward round, he had his hand on the small of her back and also whenever [Dr B] was typing up the ward round notes on the mobile computers on trolleys he would put his hand on her back.’

127. The Tribunal considered this corroborated Dr B’s account.

128. In his evidence, Dr Saravanan denied intentional contact.

129. Based on the evidence before it, the Tribunal concluded that, on the balance of probabilities, it was more likely Dr Saravanan put his hand on the small of Dr B’s back on one or more occasion.

130. The Tribunal found paragraph 2(d) of the Allegation proved.

Dr C

131. In his evidence, at the outset, Dr Saravanan told the Tribunal that he could not recall any interaction with Dr C. However, he said that he only remembered her because he recalled she had arrived in the UK only a few months prior to commencing work at the Hospital. He said that he recalled being empathetic to her as he appreciated how difficult he found it when he arrived in the UK.

3. Between 7 November 2016 and 11 November 2016 you acted as the Consultant supervising Dr C, a Foundation Year Doctor, on the Cardiology ward at the Hospital and you:

a. on one or more occasion during ward rounds with Dr C touched Dr C’s back;

132. In paragraph 4 of her statement to the GMC, Dr C stated:

‘….. I did the ward rounds with him every day during that week and on a couple of occasions during the ward rounds, Dr Saravanan touched my back. I think it happened at least three times and it made me feel uncomfortable.’

133. The Tribunal noted an entry in the Trust interview record under question 7 stated:

‘(indicates where hand placed on back), on lower back.’

134. In his evidence, Dr Saravanan accepted that this was possible owing to his tactile nature, although he could not recall whether it happened or not.
135. The Tribunal had regard to the statement to the GMC of Ms K. She stated in paragraph 5:

‘Whenever cardiologists came onto the ward, they would have a morning huddle with their understudies, usually in the corridor. They would all have a chat before going into the bay where the patients are. On one particular day in February 2017, I noticed that Dr Saravanan put his left arm around one of the junior doctor’s, who I now know to be [Dr C]. He ran his hand across her back and it ended on her bottom. She was very professional about it and just stood like a stiff board. I thought that they must have been in a relationship.’

136. Ms K maintained this in her oral evidence to the Tribunal.

137. Dr C’s account of what took place was clear and consistent throughout her oral evidence to the Tribunal. The Tribunal preferred her version of events.

138. On the balance of probabilities, the Tribunal determined that it was more likely that Dr Saravanan, on one or more occasion during ward rounds with Dr C touched Dr C’s back.

139. The Tribunal therefore found paragraph 3(a) of the Allegation proved.

b. on one occasion whilst sitting next to Dr C:

i. touched Dr C’s lower back with your hand;

140. In her statement to the GMC at paragraph Dr C stated:

‘On one occasion during a morning ward round, I cannot recall the exact date, we went to see a patient and at the bottom of the ward, there were two desktop computers and some portable laptops. The laptop I was using didn’t have any battery and Dr Saravanan and I wanted to see an ultrasound, so we went over to the desktop computers. I sat down on a bench and logged onto my account on the desktop and felt Dr Saravanan coming up behind me and he sat next to me on my right side. I then felt him touch my lower back with his left hand ....’

141. The Tribunal also had regard to Ms K’s evidence as set in paragraph 135 above.

142. In relation to the allegation, Dr Saravanan denied intentional contact. The Tribunal considered his account to be unlikely given the clear evidence of Dr C and Ms K.
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143. The Tribunal concluded that, on the balance of probabilities, it was more likely that Dr Saravanan touched Dr C’s lower back with his hand. It therefore found paragraph 3(b)(i) of the Allegation proved.

   ii. moved your hand round to touch Dr C’s thigh over her clothing;

144. In paragraph 5 of her statement to the GMC, Dr C stated:

   ‘... and he gradually moved it round to touch my right thigh over my clothing. When I realised that, I immediately stood up and moved away.’

145. In paragraph 7 of her statement to the GMC, Ms K stated:

   ‘Later on, [Dr C] was sitting down at a computer typing up notes at the end of the ward in between bed 24 and 29. Dr Saravanan stood next to her and put his arm around her, leaning into her as she was sitting down. I noticed that she had a wedding ring on, so I thought she might have been having an affair. I made a comment to one of my colleagues about whether they were in a relationship. [Dr C] was very professional; she just sat there like stone. I got the impression that she was just ignoring it as if it wasn’t happening.’

146. The Tribunal noted that Ms K made no mention of Dr Saravanan touching or placing his hand on Dr C’s thigh.

147. In his evidence to the Tribunal, Dr Saravanan described that Dr C was sat at the computer to the right which was nearest to the end of the desk on which the computers were situated. He told the Tribunal that he sat on the left side of Dr C. He said it was inconceivable that he could reach around to touch Dr C’s thigh over her clothing.

148. The Tribunal, however, found Dr C’s evidence more credible and plausible. She gave a clear account. Dr Saravanan’s oral evidence on this point was not set out in his witness statement, where he simply denied intentional contact. The Tribunal considered his account in oral evidence to be a later fabrication. It was of the view that, on the balance of probabilities, it was more likely, given Dr Saravanan’s pattern of behaviour, which included touching at the computer desk, that he moved his hand round to touch Dr C’s thigh over her clothing.

149. It therefore found paragraph 3(b)(ii) of the Allegation proved.

   c. on one occasion in the presence of a patient:

      i. put your hand on Dr C’s lower back;
150. In paragraph 6 of her statement to the GMC, Dr C stated:

‘On another occasion, I cannot recall the exact date, after the morning ward round; Dr Saravanan and I were performing a V-scan on a patient in the bay at the bottom of the ward with the curtains closed. I held the probe with my right hand and with my left hand held the screen. Dr Saravanan put his right hand over my right hand and tried to show me how to get a good image on the screen. While he was doing this, I felt his left hand on my lower back ....’

151. In his evidence, Dr Saravanan accepted that this may have happened owing to his tactile nature.

152. The Tribunal, having determined that it preferred Dr C’s account, concluded that, on the balance of probabilities, it was more likely that Dr Saravanan put his hand on Dr C’s lower back. This fitted in with the pattern of his behaviour.

153. It therefore found paragraph 3(c)(i) of the Allegation proved.

   ii. moved your hand down towards Dr C’s bottom.

154. In paragraph 6 of her statement to the GMC, Dr C stated:

   ‘... and it gradually started moving down towards my bottom. When he did this, I told him it would be better to do it himself and I moved out of the way and went round to the other side of the bed. Dr Saravanan didn’t say anything when he did it.’

155. The Tribunal noted that in response to question 14 at the Trust interview about whether she had done any v-scan procedures with Dr Saravanan and whether anything happened, Dr C stated:

   ‘Yes, with a V Scan, There was a lady at the back of the ward, he asked if I wanted to do a (procedure) for my portfolio. I said yes. He came at my back, I was leaning over the patient. I was holding the probe, he put one of his hands over my hand holding the probe and put his other hand on my lower back and gradually was stroking it, his hand going down and then I stopped and said that he would be better to do it himself and I went to the other side of the bed. There was no one else around on this occasion. We had the curtain closed around the bed as well.’

156. Based on the evidence before it, the Tribunal determined that, on the balance of probabilities, it was likely that Dr Saravanan moved his hand down towards Dr C’s bottom.
157. The Tribunal therefore found paragraph 3(c)(ii) of the Allegation proved.

Dr D

4. Between April 2015 and July 2015 you acted as Dr D’s clinical supervisor for her cardiology placement at the Hospital, and you:

a. on one or more occasion touched Dr D’s bottom with the:

   i. back of your hand;

158. The Tribunal noted that in regard to a question put to her during the Trust interview about whether she came into contact with Dr Saravanan, Dr D stated:

   'Yes, during ward rounds. He would touch me on the bottom, using the back of his hand. Later on during the placement he would turn his hand, so the flat of his hand would be touching me.'

159. In paragraph 6 of her statement to the GMC, Dr D stated:

   'Dr Saravanan would only ever talk to me about the job and discussed patient’s cases, so he was professional in what he would say. Whenever we did a ward round, we would walk aside each other to patients bay and would always look at patients notes in the corridor before going in to see them. Whilst we would look at the patient’s notes, Dr Saravanan would come up by my side and touch my bottom with the back of his hand. He kept it flat the whole time and deadly still on the centre of my bottom. This occurred on every ward round I did with Dr Saravanan and it would mostly occur whilst we were looking at the patient’s paper notes in the corridor of the cardiology ward.'

160. In his evidence, Dr Saravanan denied intentional contact.

161. The Tribunal had regard to paragraph 5 of Dr N’s statement, dated 3 February 2019, which stated:

   'I recall on one occasion in the summer of 2015, sometime between May and July, [Dr D] and I had a conversation about Dr Saravanan. She told me that on one occasion whilst on the ward, Dr Saravanan had gone over to talk to her and had stood right next to her, so his hand rested on her bottom. I don’t recall exactly where it happened, but I have a feeling it was when they were on a ward round. She said that she thought it was intentional rather than an accident and she seemed quite distressed and disgusted by it .....’
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162. On the evidence before it, and given the pattern of behaviour displayed by Dr Saravanan towards other female junior doctors, the Tribunal concluded that it preferred Dr D’s account. It therefore determined that, on the balance of probabilities, Dr Saravanan, on one or more occasion, touched Dr D’s bottom with the back of his hand.

163. The Tribunal therefore found paragraph 4(a)(i) of the Allegation proved.
   
   ii. palm of your hand;

164. The Tribunal had regard to paragraph 6 of Dr D’s statement to the GMC as set out at paragraph 159 above.

165. In his evidence, Dr Saravanan denied intentional contact.

166. On the evidence before it, and given the pattern of behaviour displayed by Dr Saravanan, the Tribunal concluded that it preferred Dr D’s account. It therefore determined that, on the balance of probabilities, Dr Saravanan, on one or more occasion touched Dr D’s bottom with the palm of his hand.

167. The Tribunal therefore found paragraph 4(a)(ii) of the Allegation proved.

   b. on one occasion stroked the hair from Dr D’s forehead.

168. The Tribunal had regard to paragraph 9 of Dr D’s statement to the GMC in which she stated:

   ‘On one occasion, I was coming out of the hospital canteen on my way back to the ward and Dr Saravanan was walking toward the canteen. Whilst in the corridor, we stopped and greeted each other verbally. We had a short conversation about something related to the ward and then he commented that I had a piece of hair on my face and stroked it away from my forehead with his hand. ….’

169. In his evidence, Dr Saravanan accepted that this was possible owing to his tactile nature.

170. The Tribunal determined that, on the balance of probabilities, Dr Saravanan, on one occasion, stroked Dr D’s hair from her forehead.

171. It therefore found paragraph 4(b) of the Allegation proved.
Dr E

Between November 2014 and April 2015 you acted as Dr ED’s clinical supervisor for her cardiology placement at the Hospital and you:

Amended under Rule 17(6)

a. on one or more occasion:

i. stood inappropriately close to Dr E;

172. In paragraph 5 of her statement to the GMC, Dr E stated:

'Before I began my rotation, I don't recall who, but someone had told me about Dr Saravanan and that he could be a bit creepy and inappropriate towards female junior staff, so I was already aware of who he was. I had no concerns at first, but around one month into my rotation he began to touch me inappropriately on ward rounds. Whenever we were with patients or if I was writing up patient notes, Dr Saravanan would stand very close to me and put his hand on the side of my bum or on my bum and move it back and forth which made me feel very uncomfortable. He would stand close to me with his hand behind his back in a way I feel that people in front wouldn't be able to see. Every time he did this I would try and move away, but each time I moved, he would move with me until he was so close that I felt like I was trapped. This happened almost every time we did a ward round together. It was unusual if it didn't happen.'

173. In her statement to the Trust, Dr E stated:

'I was by the computer reviewing notes before seeing a patient and he would put his hand on my bum or my leg. We were stood next to each other, if I tried to move, he would move also so I couldn't get away. It happened every time. It was unusual if it didn't happen.'

174. In his evidence Dr Saravanan admitted that he may have stood close to Dr E but could not recall whether it happened. He added that he may have failed to understand the impact standing close to his colleagues had on them.

175. Based on the evidence before it, the Tribunal determined that, on the balance of probabilities, Dr Saravanan stood inappropriately close to Dr E. It therefore found paragraph 5(a)(i) of the Allegation proved.

ii. put your hand on Dr E’s bottom;

iii. moved your hand back and forth on Dr E’s bottom;
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176. The Tribunal considered paragraph 5(a)(ii – iii) together.

177. In Dr E’s statement to the Trust, the Tribunal noted the following responses:

[Question]

‘I was by the computer reviewing notes before seeing a patient and he would put his hand on my bum or my leg. We were stood next to each other, if I tried to move, he would move also so I couldn’t get away. It happened every time. It was unusual if it didn’t happen.

[Question]

At least 4/5 times

[Question]

Minutes

[Question]

Touches to my bottom, to the back of my buttock. It wasn’t just touching, it was also stroking up & down.’

178. In paragraph 5 of her statement to the GMC, Dr E stated:

‘…. I had no concerns at first, but around one month into my rotation he began to touch me inappropriately on ward rounds. Whenever we were with patients or if I was writing up patient notes, Dr Saravanan would stand very close to me and put his hand on the side of my bum or on my bum and move it back and forth which made me feel very uncomfortable. He would stand close to me with his hand behind his back in a way I feel that people in front wouldn’t be able to see. Every time he did this I would try and move away, but each time I moved, he would move with me until he was so close that I felt like I was trapped. This happened almost every time we did a ward round together. It was unusual if it didn’t happen.’

179. During his evidence under cross examination, Dr Saravanan accepted there was an ‘increased chance of touching when walking close to her’, but he denied any sexual motivation.

180. The Tribunal considered Dr E’s evidence was clear, and consistent with her statements to the Trust and the GMC. The Tribunal was not persuaded by Dr Saravanan’s explanation and considered it implausible.
181. On the evidence before it, the Tribunal determined that, on the balance of probabilities, it was more likely that Dr Saravanan put his hand on Dr E’s bottom and moved his hand back and forth on her bottom.

182. It therefore found paragraphs 5(a)(ii – iii) of the Allegation proved.

b. on one occasion in the presence of a patient put your arm around Dr E and:

   i. touched Dr E’s:

   a. lower back;

   b. bottom;

183. The Tribunal considered paragraph 5(b)(i)(a – b) together.

184. It noted that in Dr E’s statement to the Trust, she said:

   ‘I was the F1 on Cardiology the weekend of the end of February 2015. Dr Saravanan was the Consultant on-call. There was a man not very well in the corner bed on CCU. Dr Saravanan wanted a bedside echo. Whilst I was taking this Dr Saravanan stood behind me with one hand on my hand, and his other hand on my bum. I couldn’t move, I tried to get out but I was trapped.’

185. In paragraph 6 of her statement to the GMC, Dr E stated:

   ‘... I was stood to the right of the patient’s bed and Dr Saravanan was stood to my right slightly behind me. He put his left arm round me and touched my lower back, then my bum and left it there.’

186. In her oral evidence to the Tribunal, Dr E explained that Dr Saravanan moved his left hand from the monitor to her bottom. She maintained throughout that he put his arm around her and touched her bottom.

187. In his evidence, Dr Saravanan said that it was possible that he touched Dr E’s lower back owing to his tactile nature but denied touching her bottom. He added that although he could not recollect undertaking the v-scan procedure that time, it would be ‘ridiculous’ to allow the monitor to dangle, and that he would not have allowed it to. He said that the monitor has to be held in the hand because the doctor undertaking the procedure has to make adjustments using the navigation buttons on the monitor to obtain the best quality images.

188. The Tribunal was not convinced by Dr Saravanan’s explanation. It considered that, on the evidence before it, and given his pattern of behaviour, it was more likely
that Dr Saravanan on one occasion in the presence of a patient put his arm around Dr E and touched her lower back and her bottom.

189. The Tribunal therefore found paragraphs 5(b)(i)(a – b) of the Allegation proved.

ii. stood so close to Dr E that the front of your body touched Dr E’s back;

190. In paragraph 6 of her statement to the GMC, Dr E stated:

‘.... He was standing so close that the front of his body was touching my back and I felt trapped. I let go and tried to move away but he initially didn't move. He then let me get out of his grasp. Dr Saravanan didn't say anything as he was touching me; he was just talking to me about the scan.’

191. Throughout her oral evidence to the Tribunal, Dr E maintained this.

192. In his written evidence, Dr Saravanan denied intentional contact. During cross examination however, Dr Saravanan said that he could recollect the events but accepted that Dr E had 'no reason to lie'.

193. Based on the evidence before it, the Tribunal found paragraph 5(b)(ii) of the Allegation proved.

c. on one occasion in the presence of a patient knelt down and stroked Dr E’s leg from her ankle upwards to her mid-calf.

194. In her statement to the Trust, Dr E stated:

'I was on Heart Assessment Centre (HAC) Dr Saravanan was bending down looking at a Male patient, he started stroking my legs. I tried to move and he followed me. He asked me to go to the CATH Lab, I knew nobody was around, I tried to make excuses but he said it was important.'

195. In paragraph 7 of her statement to the GMC, she stated:

'Later on that same day, Dr Saravanan and I were in the HAC. We were seeing a patient and he knelt down to examine the patient and I was standing next to him writing notes. Dr Saravanan was knelt down to the left of me and he began stroking my left leg from my ankle upwards to my mid-calf. I was wearing jeans or trousers at the time, but my ankle was exposed and he was touching my bare skin. ....’
196. During her evidence under cross examination, Dr E described to the Tribunal what she was wearing on the day and she maintained that Dr Saravanan stroked her leg from the ankle upwards to her mid-calf.

197. In his evidence, Dr Saravanan denied intentional contact and said that his perception of touching was not very good owing to his tactile nature. He maintained, however, that he did not stroke Dr E’s leg as alleged.

198. The Tribunal found Dr E’s evidence persuasive, and determined that it preferred her account. It determined that, on the balance of probabilities, and in view of his pattern of behaviour, it was more likely Dr Saravanan stroked Dr E leg from her ankle upwards to her mid-calf.

199. It therefore found paragraph 5(c) of the Allegation proved.

6. Your conduct as described at paragraphs 1, 2, 3, 4 and 5 above was sexually motivated.

200. The Tribunal has found all of the alleged facts in paragraphs 1 – 5 proved in this case. It reminded itself that this did not automatically mean that Dr Saravanan’s actions were sexually motivated. To determine whether his actions were sexually motivated, the Tribunal took into account all of the evidence.

201. The Tribunal noted that this case involved five young female junior doctors, all of whom were FY1 trainees. With each complainant, it noted that Dr Saravanan’s behaviour started with his touching of the backs and sometimes making comments, or asking questions, which were perceived as personal or sexual in nature. In this regard, the Tribunal had regard to Dr I’s statement in which she stated:

‘...[Dr A] said that he’d made comments to her of a sexual nature, which had made her feel uncomfortable. [Dr A] said that he had made comments in relation to her appearance, and I think she mentioned that he said she looked ‘ravishing’....’

202. The Tribunal considered there was an element of grooming to Dr Saravanan’s behaviour. The Tribunal noted the evidence from Drs A – E and that of other nursing and ward staff that on all possible occasions, Dr Saravanan specifically chose young female doctors to accompany him on ward rounds. This was the case even if the female FY1 doctor had suggested that she would prefer to go to the CCU, and the registrar joined Dr Saravanan on his ward round. This selectivity suggests an element to the Tribunal of deliberate planning on Dr Saravanan’s part, in order to facilitate opportunities to make physical contact with the female junior doctors as demonstrated in the Allegation. He started with what might simply have been perceived as overfriendly touching of the back or shoulders. This escalated to touching the junior doctors on other parts of their bodies, on occasions in the
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presence of patients. At times he touched an intimate area, notably the bottom and touched bare skin. In this regard, the Tribunal had regard to its findings in respect of Drs A, B, C and E, where the alleged facts occurred in the presence of a patient, when it would have been more difficult for the junior doctor to complain about Dr Saravanan’s behaviour.

203. The Tribunal took into account the impact Dr Saravanan’s behaviour had on the junior doctors. In her statement to the Trust, Dr A stated ‘In essence, I was trying to quickly conduct the scan whilst being assaulted,…’ and ‘…The second time he placed his hand on my bottom I could not be more certain, I felt violated, and sick.’

204. Dr B stated ‘When he was knelt down, he put his hand on my knee. He didn’t advance it, but he held it there for too long and it didn’t feel very nice. It felt like Dr Saravanan was taking advantage of the fact that I was a junior, as I was an FY1 at the time. It made me want to get the ward round over and done with so that I could leave.’

205. Dr C stated ‘… and he gradually moved it round to touch my right thigh over my clothing. When I realised that, I immediately stood up and moved away.’

206. Dr D stated ‘Yes, during ward rounds. He would touch me on the bottom, using the back of his hand. Later on during the placement he would turn his hand, so the flat of his hand would be touching me.’ and ‘… Dr Saravanan would come up by my side and touch my bottom with the back of his hand. He kept it flat the whole time and deadly still on the centre of my bottom. This occurred on every ward round ....’

207. Dr E stated ‘Whenever we were with patients or if I was writing up patient notes, Dr Saravanan would stand very close to me and put his hand on the side of my bum or on my bum and move it back and forth which made me feel very uncomfortable.’ and ‘I was by the computer reviewing notes before seeing a patient and he would put his hand on my bum or my leg. ...’

208. The Tribunal also had regard to the comments made by other staff who witnessed the matters before the Tribunal.

209. Dr F said that in his view it was inappropriate for Dr Saravanan to place his hand on Dr A’s back when guiding her to the patient bays. Dr F also confirmed that when he did ward rounds with Dr Saravanan, Dr Saravanan never put his hand on his back.

210. Ms L stated ‘Dr Saravanan was overfriendly to the younger, more junior female staff. In the Ragboard meeting, he would choose who to accompany him on the ward round and would always choose a younger female. When carrying out the
ward round, he would invade their personal space, put his arm around their backs and shoulders and stand very close to them, for example whenever the girls were using the computers on wheels, he would be stood very close. It was very obvious that he singled out the female junior doctors.’

211. Ms K stated ‘On one particular day in February 2017, I noticed that Dr Saravanan put his left arm around one of the junior doctor’s, who I now know to be [Dr C]. He ran his hand across her back and it ended on her bottom.

212. In the Tribunal’s view, there was a pattern of behaviour by an older male doctor directed solely towards younger female doctors. Dr Saravanan did not behave in this way towards male or more senior female colleagues. It was not conceivable that in each of these instances, Dr Saravanan’s actions could be accidental and/or unintentional, as asserted by him.

213. The Tribunal therefore concluded that, taking Saravanan’s overall pattern of behaviour towards the five female junior doctors, his conduct was sexually motivated.

214. The Tribunal therefore found paragraph 6 of the Allegation proved.

The Tribunal’s Overall Determination on the Facts

Dr A

1. Between 13 February 2017 and 17 February 2017 you acted as the Consultant supervising Dr A, a Foundation Year Doctor, on the Cardiology ward at Arrowe Park Hospital (‘the Hospital’) and:

   a. on one or more occasion on 13 February 2017 you put your hand on Dr A’s lower back; **Found Proved**

   b. on 14 February 2017 you:

      i. said to Dr A that she ‘looked stunning dressed all in black’, or words to that effect; **Found Proved**

      ii. on one or more occasion:

         a. in the presence of patients put your arm around Dr A’s waist and held it there; **Found Proved**

         b. placed your hand on Dr A’s lower back; **Found Proved**
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iii. during ward rounds with Dr A you stroked the lateral aspect of Dr A’s bottom; **Found Proved**

c. on 15 February 2017 you:

i. asked Dr A to look at the photograph on her lanyard and said:

a. ‘it is a very beautiful photograph’ or words to that effect; **Found Proved**

b. you ‘liked Dr A’s hair like that’ in the photograph or words to that effect; **Found Proved**

ii. on one or more occasion put your hand under Dr A’s cardigan, over the top of Dr A’s t-shirt; **Found Proved**

d. on 16 February 2017 you:

i. on one or more occasion, put your hand on Dr A’s lower back; **Found Proved**

ii. in the presence of a patient:

a. put your hand on Dr A’s bottom; **Found Proved**

b. held the centre of Dr A’s buttock cheek with a firm grip; **Found Proved**

c. stroked Dr A’s bottom with one or more of your fingers; **Found Proved**

d. kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient; **Found Proved**

iii. in the presence of another patient:

a. instructed Dr A to kneel on the bed; **Found Proved**

b. held Dr A’s buttock cheek with your hand; **Found Proved**

c. kept your hand on Dr A’s buttock cheek while Dr A performed a scan on the patient;
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Found Proved

e. on 17 February 2017, you:
   i. touched Dr A’s lower back; Found Proved
   ii. attempted to touch the upper part of Dr A’s bottom. Found Proved

Dr B

2. On three separate days between 26 December 2016 and 5 February 2017, you acted as the Consultant supervising Dr B, a Foundation Year Doctor, on the Cardiology ward at the Hospital, and you:

   a. on one or more occasion, during ward rounds with Dr B:
      i. put your hand on Dr B’s shoulder; Found Proved
      ii. stood inappropriately close to Dr B; Found Proved
   
   b. on one occasion:
      i. put your arm around Dr B’s lower back; Found Proved
      ii. moved your hand up Dr B’s jumper so it was touching Dr B’s bare skin on her hip; Found Proved
      iii. left your hand in the position described at paragraph 2 b ii above while Dr B typed; Found Proved
   
   c. on one occasion, in the presence of a patient, put your hand on Dr B’s knee; Found Proved
   
   d. on one or more occasion whilst walking alongside Dr B, put your hand on the small of Dr B’s back. Found Proved

Dr C

3. Between 7 November 2016 and 11 November 2016 you acted as the Consultant supervising Dr C, a Foundation Year Doctor, on the Cardiology ward at the Hospital and you:

   a. on one or more occasion during ward rounds with Dr C touched Dr C’s back; Found Proved
b. on one occasion whilst sitting next to Dr C:
   i. touched Dr C’s lower back with your hand; **Found Proved**
   ii. moved your hand round to touch Dr C’s thigh over her clothing; **Found Proved**

c. on one occasion in the presence of a patient:
   i. put your hand on Dr C’s lower back; **Found Proved**
   ii. moved your hand down towards Dr C’s bottom. **Found Proved**

Dr D

4. Between April 2015 and July 2015 you acted as Dr D’s clinical supervisor for her cardiology placement at the Hospital, and you:
   a. on one or more occasion touched Dr D’s bottom with the:
      i. back of your hand; **Found Proved**
      ii. palm of your hand; **Found Proved**
   b. on one occasion stroked the hair from Dr D’s forehead. **Found Proved**

Dr E

5. Between November 2014 and April 2015 you acted as Dr EB’s clinical supervisor for her cardiology placement at the Hospital and you: **Amended under with Rule 17(6)**
   a. on one or more occasion:
      i. stood inappropriately close to Dr E; **Found Proved**
      ii. put your hand on Dr E’s bottom; **Found Proved**
      iii. moved your hand back and forth on Dr E’s bottom; **Found Proved**
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b. on one occasion in the presence of a patient put your arm around Dr E and:

i.  touched Dr E’s:
   a.  lower back; Found Proved
   b.  bottom; Found Proved

ii. stood so close to Dr E that the front of your body touched Dr E’s back; Found Proved

c. on one occasion in the presence of a patient knelt down and stroked Dr E’s leg from her ankle upwards to her mid-calf. Found Proved

6. Your conduct as described at paragraphs 1, 2, 3, 4 and 5 above was sexually motivated. Found Proved

Determination on Impairment - 16/04/2019

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received a bundle from Dr Saravanan. This included testimonial evidence from his colleagues in India, former colleagues in the UK, and from personal social acquaintances. All of them said they were aware of the GMC investigation, and spoke highly of Dr Saravanan and attested to his good clinical work and character.

Submissions

3. On behalf of the GMC, Ms Acker submitted that Dr Saravanan’s fitness to practise was impaired at the time of these events and is currently impaired. She referred the Tribunal to relevant authority and to paragraphs 35, 37, 38, 39, 40, 41, 42 and 43 of Good Medical Practice (GMP) which she said are engaged in this case. Ms Acker said that Dr Saravanan’s conduct, which involved repeated and deliberate sexually motivated touching of five junior female doctors, on the ward in front of patients and other nursing staff, fell far below the standards expected of doctors.
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4. Ms Acker submitted that whilst no patient came to any harm, Dr Saravanan’s actions had the potential to cause harm to patients. She submitted that Dr Saravanan’s fitness to practise is currently impaired, referring to the need to maintain public confidence in the profession, and to maintain proper professional standards and conduct.

5. In relation to insight, Ms Acker reminded the Tribunal that during his evidence at the facts stage Dr Saravanan maintained that his touching occurred as a result of his tactile nature. Dr Saravanan had said that any physical contact was accidental, and had been misinterpreted by the junior doctors. She said that although Dr Saravanan had attended a course on maintaining professional boundaries, he did not in his evidence to this Tribunal reflect on what took place with the female junior doctors, and he had not demonstrated that he had faced up to what he had done and revised his thinking accordingly.

6. Ms Acker submitted that it cannot be right that it is acceptable for a senior colleague to touch junior colleagues in the way Dr Saravanan had in this case, given the power he had over junior colleagues. She said that a properly informed member of the public, aware of the full facts, may rightly question a finding that Dr Saravanan’s fitness to practise was not impaired. Ms Acker submitted that public confidence in the medical profession would be damaged if the seriousness of Dr Saravanan’s actions were not marked with a finding of impairment.

7. On behalf of Dr Saravanan, Ms Przybylska made no submission but said this did not mean it was accepted that Dr Saravanan’s actions were incapable of remediation.

The Relevant Legal Principles

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

9. 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 which was serious professional misconduct, and then second whether that misconduct led to a finding of impairment.

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

11. The Tribunal has already given a detailed determination in relation to the facts of Dr Saravanan’s case. It has taken those matters into account in its deliberations. It has also taken into account the submissions made by Ms Acker and Ms Przybylska.
12. Throughout its deliberations, the Tribunal has been mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

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

The Tribunal’s Determination on Impairment

Misconduct

13. The Tribunal first determined whether Dr Saravanan’s actions amount to misconduct.

14. The facts found proved in this case were that Dr Saravanan behaved inappropriately towards five female junior FY1 doctors while they were on ward rounds with him by deliberately touching their shoulders, backs, bottoms and legs. The Tribunal found that Dr Saravanan’s actions were sexually motivated.

15. The Tribunal had regard to paragraphs 36 and 37 of GMP (2013 version):

   ‘36 You must treat colleagues fairly and with respect.

   37 You must be aware of how your behaviour may influence others within and outside the team.’

16. The Tribunal also had regard to paragraph 7 of the GMC guidance on ‘Leadership and Management for all doctors’, which states:

   ‘... You must treat your colleagues fairly and with respect. You must not bully or harass them or unfairly discriminate against them. You should challenge the behaviour of colleagues who do not meet this standard.’

17. Dr Saravanan abused his position of trust towards the female junior doctors in this case. He was their Consultant supervisor (Drs A – C) or clinical supervisor (Drs D – E) and they were entitled to place their trust in him. As a senior Consultant on the ward, he was supposed to set an example of good mentoring and leadership. He failed to do this. He repeated his inappropriate behaviour whilst responsible for teaching the female junior doctors. He touched each of them repeatedly. He behaved in this way towards five female junior doctors between November 2014 and February 2017 when a complaint was finally made.
18. Dr Saravanan’s actions involved an element of grooming. On all possible occasions, he specifically chose young female doctors to accompany him on ward rounds. This selectivity suggested an element of deliberate planning on Dr Saravanan’s part, in order to facilitate opportunities to make physical contact with the doctors. His inappropriate behaviour started with what might simply have been perceived as overfriendly touching of the back or shoulders but this was escalated to touching the doctors on other parts of their bodies, including an intimate area, notably the bottom, and on two occasions he touched bare skin. This occurred in a professional setting, in the presence of patients and other colleagues and nursing staff. His actions had a distressing impact on each of the doctors. They tried to avoid his attentions in a variety of ways, and felt they could not complain for fear of jeopardising their careers.

19. Dr Saravanan’s conduct was serious and disgraceful and would be regarded as deplorable by members of the medical profession. Dr Saravanan’s actions fell far short of the standards of conduct reasonably to be expected of a doctor. The Tribunal concluded that his actions amounted to serious professional misconduct.

Impairment by reason of misconduct

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

21. The Tribunal had regard to paragraph 76 of the judgment in the case of CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin), in which Mrs Justice Cox provided a helpful approach to the determination of impairment:

‘Do our findings of fact in respect of the doctor’s misconduct... show that his/her fitness to practise is impaired in the sense that s/he:

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 brought and/or is liable in the future to bring the medical profession into disrepute; and/or
   c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or...
   d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.’

22. The Tribunal considered whether Dr Saravanan’s conduct was capable of being remediated, has been remediated, and the likelihood of its repetition. In so doing, it considered whether there was evidence of Dr Saravanan’s insight into his misconduct and any steps taken by him to remediate it.
23. The Tribunal considered whether Dr Saravanan had demonstrated insight into his misconduct. The Tribunal has been provided with very little evidence that he has reflected on his misconduct. His insight, during cross examination, was limited mainly to the effect the Trust and GMC investigations and these proceedings had on him. At one point he said to the Tribunal he had been ‘grossly misunderstood’. He attributed his inappropriate actions to his tactile nature. He told the Tribunal that, since the GMC investigation, he had attended a three day course about maintaining professional boundaries. He said that on the course he had learned that it was not appropriate to touch others, and that he should respect their personal space. Whilst the Tribunal was of the view that Dr Saravanan recognised the seriousness of crossing professional boundaries with colleagues, there is no evidence that he understands how his actions had the potential to harm patients; adversely affect the reputation of the profession; or to damage public confidence. Dr Saravanan has demonstrated very little insight into these concerns, merely saying that his actions were unintentional and could have happened owing to his tactile nature.

24. The Tribunal considered that Dr Saravanan had failed to understand the imbalance of power between himself and the junior female doctors. He was in a position of trust, and the doctors were entitled to place their trust in him. Touching them in a sexually motivated way was a serious breach of that trust. During his evidence to the Tribunal, Dr Saravanan failed to persuade the Tribunal that he appreciated the impact of that breach of trust to each of the female junior doctors. Further, he failed to demonstrate that he realised how fundamentally incompatible his conduct was with his position as a senior Consultant in the Hospital training the junior doctors. The Tribunal noted that in his reflective statement Dr Saravanan states ‘...I also failed to appreciate the distress experienced by these young women and continued to behave in ways that made them feel uncomfortable.’ However, during his oral evidence to the Tribunal, Dr Saravanan did not demonstrate meaningful insight into his misconduct, nor did he express any remorse. Throughout his oral evidence, he maintained that his actions were accidental or unintentional; not sexually motivated; and denied any wrongdoing. This undermines the claim in his witness statement of taking full responsibility for his actions.

25. Any insight into his behaviour which Dr Saravanan may have is, at best, no more than embryonic. He has not shown that he understands the full impact of his conduct upon others. Dr Saravanan has not provided any evidence that such behaviour has been remediated and is unlikely to be repeated.

26. The Tribunal took into account that doctors occupy a position of privilege and trust. In this case, Dr Saravanan was the senior Consultant on the ward and was, in his capacity as Consultant Supervisor or clinical supervisor, responsible for ensuring the well-being of the five female junior doctors on the ward rounds. Doctors are expected to act in a manner which maintains public confidence in them and in the medical profession and to uphold proper standards of conduct. Dr Saravanan’s
conduct was inappropriate and sexually motivated. The Tribunal has concluded that his conduct brought the profession into disrepute.

27. The Tribunal noted that there is no evidence any patient came to any harm. However, it determined that his actions had the potential to put patients at risk. This is because whilst the junior female doctors were conducting bedside examinations of patients, or making entries in patient records, his actions had the potential to prevent them from properly concentrating on, or learning from, the tasks they were engaged in. Further, he himself may not have given his full attention to those tasks, and may not have made the correct diagnosis or finding from the examinations. One of the junior doctors considered absenting herself from the ward because of Dr Saravanan’s behaviour towards her. This had the potential to deprive a short staffed ward of a doctor for a full shift. For these reasons the Tribunal concluded that all three limbs of the overarching objective were engaged.

28. The Tribunal reminded itself of the fundamental principle, as set out in GMP, of establishing and maintaining good relationships with colleagues. It was concerned that Dr Saravanan’s sexually motivated conduct was repeated towards five female junior doctors and took place over a number of years. The Tribunal determined that Dr Saravanan’s conduct would be considered unacceptable and unprofessional by other members of the profession and the public alike. It considered that his behaviour had brought the medical profession into disrepute and had breached a fundamental tenet of the profession. The Tribunal considered that the public would expect there to be a finding of impairment in a case where the doctor had engaged in this type of behaviour.

29. In all the circumstances, the Tribunal concluded that a finding of impaired fitness to practise was required in order to protect, promote and maintain the health, safety and wellbeing of the public, to maintain public confidence in the profession, and to promote and maintain proper professional standards and conduct for members of the profession.

**Determination on Sanction - 16/04/2019**

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

**Submissions**

2. On behalf of the GMC, Ms Acker submitted that the appropriate sanction was one of erasure. She reminded the Tribunal that in exercising its judgment on the appropriate sanction it must start with the least restrictive.
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3. She referred the Tribunal to its determinations on the facts and impairment and highlighted those sections which she said indicated why it was not appropriate to take no action, or impose conditions or suspension. She then referred the Tribunal to paragraphs 108 and 109 of the Sanctions Guidance (SG) relating to erasure and said that sub-paragraphs 109 (a), (c), (d), (f) and (j) were engaged in this case. She said that Dr Saravanan’s misconduct was a serious departure from the principles of GMP; his misconduct was repeated over a number of years; was an abuse of position and trust; and was of a sexual nature. Further, his persistent lack of insight into what he did and the impact of his actions on the junior doctors was reflected throughout his evidence.

4. Ms Acker submitted Dr Saravanan’s misconduct was fundamentally incompatible with his continued registration on the Medical Register and invited the Tribunal to impose an order of erasure.

5. On behalf of Dr Saravanan, Ms Przyblyska said that a sanction of suspension was appropriate in this case to maintain public confidence in the profession. She submitted that Dr Saravanan’s misconduct fell short of the required level for erasure. She said that the Tribunal could be satisfied from the gravity of the matters found proved in this case, when compared to other cases involving sexual misconduct, that suspension was appropriate and proportionate. She referred the Tribunal to the SG and said that the Tribunal could exercise discretion when considering the appropriate sanction. She said that erasure was not the only option available to the Tribunal. She said that the touching in this case was over clothing and not on private parts of the body.

6. Ms Przyblyska submitted that during his evidence to the Tribunal Dr Saravanan had demonstrated some remorse and regret for the way in which he made the junior doctors feel, and that he recognised how he should have behaved towards them. She said that Dr Saravanan is a good doctor with an otherwise unblemished career. In this respect, she referred the Tribunal to the positive testimonials from his current and former colleagues attesting to his good clinical work and character. She said that some of these testimonials supported the fact that Dr Saravanan regretted what he had done. Ms Przyblyska said there was evidence, albeit partial, that Dr Saravanan had some insight into the concerns. She submitted that even a limited amount of insight gave hope for remediation.

7. She reminded the Tribunal that he had sought help and guidance from colleagues soon after the complaints were made against him, and that he had attended a three day Professional Boundaries Course.

8. She submitted that Dr Saravanan accepted that he did not maintain appropriate boundaries or read the signs of the discomfort he caused to the complainants. She said that he accepted he needed to change his behaviour.

9. Ms Przyblyska invited the Tribunal to impose a sanction of suspension for the maximum period of twelve months with a review.
The Tribunal’s Approach

10. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its own judgement. In so doing, it has given consideration to its findings of fact, its findings of misconduct and impaired fitness to practise and the submissions made by Ms Acker and Ms Przyblyska.

11. Throughout its deliberations the Tribunal bore in mind that the purpose of sanctions is not to be punitive, but to protect the public interest. The public interest includes protecting the health, safety and wellbeing of the public, maintaining public confidence in the profession, and declaring and upholding proper standards of conduct and behaviour. In making its decision, the Tribunal also had regard to the principle of proportionality, and it considered Dr Saravanan’s interests as well as those of the public. It also considered and balanced the mitigating and aggravating factors in this case.

12. The Tribunal identified the following aggravating factors:

   **Aggravating**
   
   • Dr Saravanan’s persistent lack of insight – he continued to downplay to the Tribunal the gravity of what he had done;
   • He abused his position of trust – as a senior Consultant and the Consultant supervisor or clinical supervisor responsible for teaching the junior doctors, and there was an imbalance of power;
   • There was targeting of junior female doctors and deliberate planning on his part, in order to facilitate opportunities to make physical contact with them;
   • His misconduct was repeated over some two and a half years;
   • His misconduct was directed towards five different junior doctors;
   • He touched each of the junior doctors repeatedly, at times in the presence of patients, colleagues and other nursing staff.

   **Mitigating**
   
   • He has no previous adverse history with the GMC;
   • The positive testimonials from his colleagues attesting to his good clinical work and character;
   • The evidence before the Tribunal is that he is a highly regarded Cardiologist;
   • He has taken some steps to try to start to remediate, including attending a three day face-to-face Professional Boundaries Course, undertaking other online courses, as well as seeking advice and assistance from other medical practitioners.
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No action

13. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Saravanan’s case, the Tribunal first considered whether to take no action. The Tribunal considered, amongst others, paragraphs 68-70 of the SG which highlights that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

14. The Tribunal has determined that, given the gravity of the facts found proved, and in the absence of any exceptional circumstances in this case, taking no action would be neither appropriate, proportionate nor in the public interest.

Conditions

15. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Saravanan’s registration. The Tribunal took account of the SG, in particular paragraphs 1, 79, 81 and 82. It also had regard to paragraph 85, which states:

‘85 Conditions should be appropriate, proportionate, workable and measurable.’

16. In the light of its findings, the Tribunal determined that it would not be possible to formulate a set of appropriate or workable conditions which could adequately address Dr Saravanan’s misconduct, particularly given that it involved sexual misconduct. The Tribunal concluded that a period of conditional registration would not be a sufficient, workable, or proportionate sanction to satisfy the public interest. In any event, the Tribunal considered that no conditions could be formulated which would protect clinical colleagues from the risk of Dr Saravanan repeating his misconduct.

Suspension

17. The Tribunal then went on to consider whether a period of suspension would be an appropriate and proportionate sanction to impose on Dr Saravanan’s registration. The Tribunal took into account paragraphs 91, 92, 93, and 97(a), (e) and (g), which state:

‘91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.'
92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (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).

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

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

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

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

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

18. There is very little evidence that Dr Saravanan has reflected effectively on his misconduct. The Tribunal noted that Dr Saravanan undertook some remediation. This included attendance at a three day Professional Boundaries Course and undertaking on-line courses. However, in his evidence, it was clear to the Tribunal that he failed to recognise the impact his actions had on the female junior doctors. The little insight Dr Saravanan gained was limited mainly to the effect the Trust and GMC investigations and these proceedings had on him. Further, he has not provided any meaningful evidence that he understands how his actions had the potential to harm patients; adversely affect the reputation of the profession; or to damage public confidence. Dr Saravanan has demonstrated very little insight into these concerns, merely saying that he had been grossly misunderstood, and that his actions were unintentional and could have happened accidentally owing to his tactile nature. The Tribunal was therefore not satisfied that further remediation is likely to be successful.
19. There is no evidence before the Tribunal that Dr Saravanan acknowledged any fault or wrongdoing. The Tribunal could not be satisfied that he would not repeat his misconduct.

20. Dr Saravanan was a senior Consultant in a position of trust, responsible for teaching the junior female doctors. He breached that trust. His misconduct took place over a period of some two and a half years and involved deliberately touching the junior doctors on their shoulders, backs, bottoms and legs. Despite some of the junior doctors making it clear to Dr Saravanan that they were not comfortable with his behaviour, for example by moving away from him when he got close to them, he persisted and continued to touch them on other parts of their bodies, including an intimate area, notably the bottom, and on two occasions he touched bare skin.

21. By doing this, Dr Saravanan failed to uphold the proper standards of behaviour expected of doctors by the public, and his conduct breached a fundamental tenet of the profession. His failure to comply with the relevant professional standards was serious and his conduct brought the profession into disrepute.

22. The Tribunal was mindful that a period of suspension is a temporary measure designed to remove a doctor from medical practice in anticipation that the doctor will return having addressed the concerns. In light of the information before it, the Tribunal was not satisfied that a period of suspension would have that effect. In any event, taking all the circumstances into account, the Tribunal does not consider that a period of suspension is sufficient to address the seriousness with which it views Dr Saravanan’s misconduct. Suspension would not be enough in this case to uphold proper professional standards and maintain public confidence in the profession.

Erasure

23. Having determined that imposing conditions or suspending Dr Saravanan’s registration would be insufficient sanction, the Tribunal determined to erase his name from the Medical Register. It had regard to paragraphs 108 and 109 of the SG, which state:

'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 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, ....

[...]

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

24. The Tribunal bore in mind that Dr Saravanan’s actions amounted to serious misconduct which could undermine public trust in the medical profession, and also undermines the upholding of proper professional standards and conduct.

25. The Tribunal determined that, for the reasons stated above, Dr Saravanan’s misconduct was fundamentally incompatible with his continued registration on the Medical Register. Therefore, the Tribunal concluded that erasing Dr Saravanan’s name from the Medical Register would be the only proportionate sanction to impose in order to protect the public, maintain public confidence in the medical profession and declare and uphold the proper standards of conduct and behaviour.

26. Accordingly the Tribunal determined that Dr Saravanan’s name should be erased from the Medical Register.

**Determination on Immediate Order - 16/04/2019**

1. Having determined that Dr Saravanan’s name should be erased from the Medical Register, the Tribunal has now considered, in accordance with Section 38 of the Medical Act 1983 as amended, whether to impose an immediate order to suspend his registration.

2. The Tribunal has borne in mind the test to be applied with regard to imposing an immediate order; it 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.
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Submissions on behalf of the GMC

3. Ms Acker submitted that, in view of the findings made by the Tribunal on the facts, on impairment and on sanction, an immediate order was appropriate in the public interest. She submitted that if the Tribunal is minded not to impose an immediate order of suspension, the existing interim order of conditions currently in place upon Dr Saravanan’s registration should be maintained pending the substantive order of erasure taking effect.

Submissions on behalf of Dr Saravanan

4. Ms Przyblyska submitted that an immediate order was not necessary.

Tribunal’s decision

5. The Tribunal has taken account of the relevant paragraphs of the SG in relation to when it is appropriate to impose an immediate order. Paragraph 172 of the SG states:

“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…”

6. The Tribunal has determined that, given the seriousness with which it viewed Dr Saravanan’s misconduct, and given its findings on the facts, and its findings in relation to his impairment and the appropriate sanction, it is necessary to protect patients and the public interest, and to make an order suspending Dr Saravanan’s registration immediately.

7. The substantive decision of erasure, as already announced, will take effect 28 days from when notice is deemed to have been served upon Dr Saravanan, unless he lodges an appeal in the interim. If Dr Saravanan lodges an appeal, the immediate order for suspension will remain in force until such time as the outcome of any appeal is determined.

8. The interim order of conditions currently in place upon Dr Saravanan’s registration is revoked with immediate effect.

9. That concludes the case.

Confirmed
Date 16 April 2019

Mr Martin Jackson, Chair
ANNEX A – 01/04/2019

Proceeding in Absence

1. Dr Saravanan is not present at these proceedings but is represented by Ms Sarah Przyblyska, Counsel, instructed by CMS Cameron McKenna Nabarro Olswang LLP.

2. On 1 April 2019 (Day 1) and before the case was opened, Ms Przyblyska explained that Dr Saravanan is XXX in India and is therefore unable to attend these proceedings. Ms Przyblyska said that he intends no discourtesy. She told the Tribunal that as Dr Saravanan had absented himself because XXX, and no purpose would be served by postponing the proceedings, no formal application is being made to proceed in his absence. Ms Przyblyska said she is fully instructed to act on Dr Saravanan’s behalf.

3. Ms Elizabeth Acker, Counsel for the GMC, made no submissions.

4. The Tribunal is mindful that the decision to proceed in the practitioners absence is a matter for this Tribunal. On the basis of the information provided the Tribunal is satisfied that Dr Saravanan has voluntarily waived his right to be present at this hearing and that he is aware that the hearing can proceed in his absence. The Tribunal therefore determined to proceed with this case in Dr Saravanan’s absence.
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ANNEX B – 01/04/2019

Rule 34(1) Application

1. On 1 April 2019 (Day 1), Ms Przyblyska made an application under Rule 34(1) of the General Medical Council ('GMC') (Fitness to Practise) Rules 2004, as amended (the Rules). Ms Przyblyska provided the Tribunal with a copy of her objections to specific parts of the witness statements and Trust interview notes of Ms G, Ms H, Ms L and Ms J. Ms Przyblyska submitted that the content referred to should be redacted from the statements.

2. She submitted that it was not fair for the GMC to rely on what was vague and ‘broad brush gossipy’ evidence. She said those parts of the evidence were not relevant to the Allegation brought against Dr Saravanan in relation to Drs A – E, but rather generalised observations, and not capable of proof.

3. In relation to the first sentence of paragraph 5 of Dr E’s witness statement, Ms Przyblyska submitted that this should have been redacted before the bundle was circulated.

4. On behalf of the GMC, Ms Acker submitted that the content in question was relevant as the observations made by the staff members relate to the period in which the Allegation against Dr Saravanan arose. She said that this provided evidence of Dr Saravanan’s behaviour towards junior colleagues as observed by other members of staff. She added that during the Trust’s investigation, the members of staff were only able to relate their evidence to Drs A – E after being shown photographs of Drs A – E.

5. Ms Acker submitted that if the Tribunal is not satisfied that the contents of the witness statements in question related to Drs A – E, there is evidence to support the assertion that Dr Saravanan consistently chose to work with female junior colleagues. This, she said, was relevant evidence in terms of whether what was alleged against Dr Saravanan was more likely than not to have occurred. She said that in their evidence, the witnesses consistently described Dr Saravanan touching female junior doctors. She submitted it may demonstrate a propensity to act in a way that was sexually motivated.

6. Ms Acker accepted the first sentence in paragraph 5 of Dr E’s statement should be redacted.

Legally Qualified Chair’s (LQC) advice

7. The Tribunal accepted the LQC’s advice to the tribunal that, under Rule 34(1) of the Rules it had the power to admit any evidence it considered to be ‘fair and relevant’ to the case before it. The LQC also advised the Tribunal that, at this stage
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in the proceedings, it was only deciding on the admissibility of the evidence, and not the merits of the evidence.

Tribunal decision

8. In reaching its decision, the Tribunal has had regard to Rule 34(1) of the Rules which states:

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

9. The Tribunal also took into account the submissions made by both Counsel.

10. The Tribunal was mindful of the test to be applied in determining whether the evidence before it was relevant to the allegation against Dr Saravanan. Evidence was relevant if it was capable of proving or disproving a matter in issue in the Allegation. The issues in this case are, firstly, whether Dr Saravanan behaved in the way alleged by the GMC and secondly whether, if that behaviour was found to have occurred, it was sexually motivated. The Tribunal considered that the passages of the various statements which the defence wanted excluded were capable of proving both of those issues, because they describe behaviour by Dr Saravanan towards junior female doctors said to have been observed by the witnesses concerned. That in turn could explain the motivation for the behaviour alleged against the doctor.

11. Turning to the question of fairness, the Tribunal noted that it has to have regard to fairness both to the GMC and to the doctor. As yet, no witness statement has been filed by Dr Saravanan identifying the issues in dispute. He will have the opportunity through his Counsel to challenge the witnesses concerned, and to give evidence on his own behalf. In these circumstances the Tribunal considered it was fair to both parties to admit the evidence that the defence sought to exclude. It bore in mind that whilst this evidence may be admissible, the weight to be given to it will be a matter for the Tribunal's own judgment depending upon the evidence in the case as a whole.

12. The defence application is therefore refused.
Rule 34(11) Application

1. On 1 April 2019 (Day 1), Ms Przyblyska made an application pursuant to Rule 34(11) of the General Medical Council (‘GMC’) (Fitness to Practise) Rules 2004, as amended (the Rules). Ms Przyblyska provided a skeleton argument in which she invited the Tribunal to direct that the five complainants in this case and five eye witnesses give evidence-in-chief by way of oral evidence.

2. Ms Przyblyska stated that it would not be fair to receive into evidence the witness statements as evidence-in-chief because the statements in the bundle were taken almost a year after the events and could not therefore be relied upon. She said that the allegations in this case of sexually motivated touching relied entirely on eye witness evidence and therefore that evidence must be closely scrutinised. She added that the more serious the charges the more cogent the evidence required to prove them on the balance of probabilities. She went on to say that the Tribunal would benefit from hearing evidence adduced through non-leading questions designed to bring forth a witness’s recollection of the events. She cited three factors which she submitted were relevant in this case.

3. Firstly, Ms Przyblyska submitted that unlike a witness statement in a criminal trial which is prepared mainly based on taped interviews and video evidence, the witness statements in this case are based solely on the witnesses’ recollection of the events and their response to leading questions. She submitted that the statements therefore may be deficient and may include errors. Ms Przyblyska said that as the account given to the Trust during its investigation differed to that given to the GMC, and where the witness’s recollections are the sole and crucial evidence relied upon by the GMC, it was unfair to the registrant for the GMC to present as that evidence a series of such witness statements.

4. Secondly, Ms Przyblyska submitted that the statements were prepared almost a year after the events. Had the statements been taken very shortly after the events, they might have more accurately reflected what occurred.

5. Thirdly, Ms Przyblyska submitted that the evidence in relation to those matters already dealt with under the Rule 34(1) application could only be adduced through non-leading questions in order to establish what was alleged, rather than relying on such broad assertions as made in various statements.

6. Ms Przyblyska submitted that it was not unfair to require Counsel to examine a witness in chief rather than the witness statement simply being read into the record, nor was it unfair to witnesses. She submitted that the increase in time required to examine in chief was likely to be offset by a reduction in the time required for cross examination and would not interfere with the witness timetable.
7. Ms Acker submitted that there was no justification for deviating from the procedure set out in Rule 34(11). She said that the provisions of Rule 34(11) did not ‘rob’ anyone of the opportunity to assess the witnesses in person, because although the witness statements are submitted as evidence-in-chief, their evidence could be subject to cross examination in person. Ms Acker submitted that the first and second factors advanced by Ms Przyblyska were not accepted by the GMC.

8. In relation to her third factor, Ms Acker said that this could be dealt with by way of supplementary questions and there was nothing to prevent the witnesses being asked questions around those discrete areas. She submitted that this was a case in which each of the five complainants alleged sexual behaviour towards them. She said that as the complainants had already found the whole process stressful and intimidating, there was no reason why they should not benefit from the provisions of Rule 34(11).

9. In relation to the witness timetable, Ms Acker said that there would be a significant impact upon the witness timetable if Ms Przyblyska’s application were granted. She said that the witness schedule had been drawn up based on the complainants’ and witnesses’ availability. Given they are all professionals with work commitments, any rescheduling of the timetable could impact on their availability.

**Tribunal’s decision**

10. In reaching its decision, the Tribunal had regard to Rule 34(11) of the Rules which states:

> ‘(11) A Committee or Tribunal must receive into evidence a signed witness statement containing a statement of truth as the evidence-in-chief of the witness concerned, unless—

> (a) the parties have agreed;
> (b) a Case Manager has directed; or
> (c) the Committee or Tribunal decides, upon the application of a party or of its own motion, that the witness concerned, including the practitioner, is to give evidence-in-chief by way of oral evidence;’

11. The Tribunal took into account the submissions made by both Counsel, and the advice of the Legally Qualified Chair that the starting point of Rule 34(11) is that a witness statement must be received as evidence-in-chief. It took the view that there has to be a compelling reason for departing from that position.

12. In relation to Ms Przyblyska’s first factor, the Tribunal took the view that, if it were to accept the argument advanced by Ms Przyblyska, there was no reason why it should not apply to all witnesses in fitness to practise proceedings. However, it
accepted that the provisions of Rule 34(11) did not exclude anyone from cross examining a witness’s evidence-in-chief as suggested by Ms Acker.

13. In relation to Ms Przyblyska’s second factor, the Tribunal was of the view that the evidence contained in a witness statement taken nearer to the time of the events was more likely to reflect accurately the events that occurred as opposed to asking witnesses to give their recollections of events afresh now by way of oral evidence-in-chief. While the Tribunal noted that the witness statements were taken almost a year after the events, it was of the view that it was now two years or more since these events and therefore witnesses’ recollection of the events may be less reliable due to the passage of time.

14. The third factor raised by Ms Przyblyska had already been covered in the Tribunal’s earlier determination at Annex B.

15. In relation to Ms Przyblyska’s submission about the witness timetable, the Tribunal was mindful that the witnesses are professional persons with work commitments. It took into account that all of the witnesses would have been placed on notice by the GMC to give their evidence. The Tribunal was of the view that any deviation from the witness timetable, as set out in the witness schedule, may result in a witness not being available to give evidence as scheduled. The Tribunal was not persuaded by Ms Przyblyska’s assertion that the increase in time required to examine in chief was likely to be offset by a reduction in the time required for cross-examination. It noted that witness statements received as evidence-in-chief are not read into the record in the way suggested by Ms Przyblyska in her skeleton argument.

16. In the circumstances of this case, the Tribunal could identify no compelling reason why it should depart from the mandatory primary position as set out in Rule 34(11).

17. The defence application is therefore refused.