

**PUBLIC RECORD**

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

**Dates:**

17/04/2024 - 10/05/2024; 18/11/2024 – 18/12/2024; 15/01/2025 – 17/01/2025;  
16/04/2025; 06/08/2025 – 08/08/2025

<b>Medical Practitioner's name:</b>	Dr Sayed TALIBI	
<b>GMC reference number:</b>	7280771	
<b>Primary medical qualification:</b>	MB ChB 2012 University of Bristol	
<b>Type of case</b>	<b>Outcome on facts</b>	<b>Outcome on impairment</b>
New - Misconduct	Facts relevant to impairment found proved	Impaired

**Summary of outcome**

Erasure  
Immediate order

**Tribunal:**

Legally Qualified Chair	Mr Andrew Lewis
Lay Tribunal Member:	Ms Jacqueline Telfer
Medical Tribunal Member:	Dr Helen McCormack

Tribunal Clerk:	Ms Evelyn Kramer (17/04/2024 – 10/05/2024) Ms Keely Crabtree (18/11/2024 – 18/12/2024, 16/04/2025 and 06/08/2025 – 08/08/2025) Ms Jemine Pemu (15/01/2025 – 17/01/2025)
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**Attendance and Representation:**

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Nicholas Peacock, Counsel, instructed by Weightmans
GMC Representative:	Mr Simon Jackson KC

**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 – 17/12/2024**

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

**Background**

2. Dr Talibi qualified in 2012 with a Bachelor of Medicine and Surgery (MB ChB). Following qualification, he completed his foundation medical training at the Queen Elizabeth, University Hospitals Birmingham (QE UHB) and at Royal Stoke University Hospital. Dr Talibi obtained a neurosurgery training number in early 2015 and started as a Speciality training Registrar (StR) at University Hospital Coventry and Warwickshire (UHCW) from August 2015 for one year. Dr Talibi completed his Membership of the Royal College of Surgeons Edinburgh (MRCS Ed) in March 2016. He undertook further training at QE UHB until February 2021. Dr

Talibi moved to UHCW in February 2021. He then took a career break from clinical medicine in February 2022, and he returned to his training position in August 2024. He is now undertaking full clinical responsibilities, after a staggered return to work.

3. The initial concerns were raised with the GMC on 26 October 2017, via self-referral from Dr Talibi. He confirmed XXX. He stated that Ms X had made a number of serious but ‘*totally unfounded*’ allegations against him which had resulted in a police investigation. He explained that the relationship had ended due to Ms X’s ‘*unacceptable aggressive behaviour*’.

4. In July 2018, the Police disclosed to the GMC that Dr Talibi had been arrested (two days before his self-referral to the GMC) ‘*on suspicion of coercive and controlling behaviour and three allegations of rape*’. During the course of the Police investigation a number of Dr Talibi’s electronic devices were seized and they were subsequently found to contain a number of images/photographs and documents which were disclosed to the GMC.

5. The allegations that have led to Dr Talibi’s hearing relate to a number of separate areas of concern. These are set out in the Allegation below and come under the following broad headings: alleged theft from ASDA, a photograph uploaded to Dr Talibi’s dating website, EDF fraud, intentionally creating a recording in court without leave of the court, racist and discriminatory statements, allegations relating to Ms X, and possession of images, videos and documentation on Dr Talibi’s electronic devices.

### **The Outcome of Applications made during the Facts Stage**

6. The Tribunal refused Dr Talibi’s application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that the hearing should proceed entirely in private. The Tribunal’s full decision on the application is included at Annex A.

7. Dr Talibi made an application, pursuant to Rule 34(1) of the Rules to exclude 22 passages in the main hearing bundle. The Tribunal granted the application to exclude a number of passages of evidence, and also refused the application to exclude a number of other passages. The Tribunal’s full decision on the application is included at Annex B.

8. The Tribunal granted the GMC’s application, made pursuant to Rule 17(6) of the Rules, to amend a typographical error in paragraph 1 of the Allegation. Dr Talibi did not

object to the application. The Tribunal was satisfied that it would cause no injustice to amend the Allegation. Paragraph 1 will now read 'powder'.

9. The Tribunal granted the GMC's application, made pursuant to Rule 34(1) of the Rules, to admit the evidence of Mr C contained in a written statement dated 15 March 2024. It was confirmed that Mr C would not attend the hearing to give oral evidence and the GMC applied for his evidence to be read and admitted as hearsay. The Tribunal's full decision on the application is included at Annex C.

10. Dr Talibi made an application pursuant to Rule 34(1) of the Rules to include further evidence. The Tribunal determined to refuse the application to adduce the disputed passages of a statement into evidence, save for a reference to Dr Talibi's character. The Tribunal determined to refuse the application to adduce the disputed passages of the police report into evidence, save for two factual passages. The Tribunal's full decision on the application is included at Annex D.

11. The Tribunal granted the GMC's application made pursuant to Rule 34(1) of the Rules to admit a further recording, a written summary of which had previously been provided. The recording that was the subject of this application had previously not been admitted into evidence because it had not been disclosed to Dr Talibi's representatives. It was confirmed that Dr Talibi's representatives now had access to the recording. The Tribunal's full decision on the application is included at Annex E.

12. The Tribunal refused the GMC's application, made pursuant to Rule 34(1) of the Rules, to admit a further document and email correspondence between a Civil Disclosure Officer and the GMC relating to the police investigation into Dr Talibi. The Tribunal determined that the inclusion of this material was neither relevant nor fair. The Tribunal's full decision on the application is included at Annex F.

13. The Tribunal granted Dr Talibi's application to withdraw the admissions he had made at the outset of this hearing to paragraphs 11(a)(i) to (iii) of the Allegation. The Tribunal's full decision on the application is included at Annex G.

14. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, to amend paragraphs 29(h), 31(stem) and 31(a) of the Allegation. Dr Talibi did not object to the application. The Tribunal was satisfied that it would cause no injustice to amend

the Allegation. Paragraph 29(h) will now read '*created*', paragraph 31(stem) will now read '*a date prior to*' and paragraph 31(a) will now read '*and or killings*'.

## The Allegation and the Doctor's Response

15. The Allegation made against Dr Talibi is as follows:

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

### Theft from Asda / banning order

1. On 26 May 2017, you and [Mr D] attended an Asda supermarket in [XXX] ('Asda [XXX]') and:

a. when scanning the goods at the self-service till you and [Mr D], acting together:

i. intentionally ensured that you did not scan the barcode on the item of milk powder;

**Amended under Rule 17(6)**

**To be determined**

ii. covered the barcode on the item of milk powder with your hand to prevent it from being scanned;

**Amended under Rule 17(6)**

**To be determined**

b. you and [Mr D] left Asda [XXX] without paying for the milk powder, valued in the sum of £23.50; **Admitted and found proved**

c. when challenged about your actions, as set out at paragraphs 1a and 1b above:

i. you and [Mr D] initially declined to provide confirmation of your identity to the investigating security staff member; **Admitted and found proved**

ii. you and/or [Mr D] implicitly offered money to the investigating security staff member to discontinue his investigation into your actions; **To be determined**

d. you and [Mr D] received a banning order from all Asda supermarkets for your actions as set out at paragraphs 1a and 1b above. **Admitted and found proved**

2. You knew that you had failed to pay for the milk powder when you left Asda [XXX]. **To be determined**
3. Your actions as set out at paragraphs 1a, 1b and 1c ii above were dishonest by reason of paragraph 2. **To be determined**

Photograph uploaded to dating website

4. Between 7 September 2014 and 6 September 2015, you created a profile on an online dating website ('dating profile') in which you described yourself as a '28 year old brain surgeon.' **Admitted and found proved**
5. You uploaded a photograph to your dating profile which was inappropriate in that the:
- a. photograph depicted you in a clinical setting participating in a live brain surgery procedure ('the procedure'); **Admitted and found proved**
  - b. photograph showed the exposed brain of a patient ('the Patient');
  - c. Patient had not consented to you: **Admitted and found proved**
    - i. retaining a copy of the photograph for your personal use; **Admitted and found proved**
    - ii. uploading the photograph of them to the dating profile. **Admitted and found proved**

EDF Fraud

6. On 14 June 2017, you spoke to a representative of EDF Energy via telephone ('the telephone call') in relation to an outstanding energy bill covering your property ('the property') for the period from 12 November 2016 to 12 April 2017 in the sum of £770.01. **Admitted and found proved**
7. During the telephone call referred to in paragraph 6 above, you stated that:
- a. you had a tenant named '[XXX]' ('the tenant') in the property for six months from 2 December 2016 to 2 June 2017; **Admitted and found proved**
  - b. the tenant:
    - i. owed you one month's rent; **Admitted and found proved**
    - ii. had caused significant damage to the property; **Admitted and found proved**
    - iii. had left a £700.00 energy bill; **Admitted and found proved**
    - iv. now resided at [XXX]'; **Admitted and found proved**
  - c. your surname was 'Tal',  
  
or words to that effect. **Admitted and found proved**
8. You knew that the information you provided during the telephone call as set out in paragraph 7 above was untrue. **Admitted and found proved**
9. Your actions as set out at paragraphs 6 and 7 above were dishonest by reason of paragraph 8. **Admitted and found proved**

Creating an audio recording of criminal court proceedings

10. On 24 January 2017, when attending Birmingham Magistrates' Court to be sentenced following convictions for driving offences, you intentionally created an audio recording of the sentencing hearing on your mobile phone device, despite not having leave of the Court to do so. **Admitted and found proved**

Racist / Discriminatory statements

11. Between 1 January 2016 and 27 August 2017:

- a. when discussing [XXX] in England and in the presence of others, you made racist and / or discriminatory comments when stating:
  - i. I do not like Afghan culture, I hate Afghan culture; **To be determined**
  - ii. I hate kuffar and white people; **To be determined**
  - iii. I hate this country, I hate Afghan people equally,  
or words to that effect; **To be determined**
- b. you made racist and / or discriminatory statements when communicating with [Ms X] in that on one or more occasion you:
  - i. stated that you held a strong opposition to white culture, or words to that effect; **To be determined**
  - ii. stated that you hated everyone who is not a Muslim, or words to that effect; **To be determined**
  - iii. used the derogatory term kuffar to refer to those who are non-Muslim. **To be determined**

Allegations relating to [Ms X]

12. XXX

13. XXX

14. Between [XXX]:

- a. whilst present with [Ms X] in the stairwell of a [XXX] library, in response to [Ms X] accidentally touching your glasses, you behaved in a threatening manner towards [Ms X] in that you:



- i. punched the wall; **To be determined**
  - ii. shouted aggressively; **To be determined**
  - b. you accused [Ms X] of scratching your watch and then assaulted [Ms X] by grabbing her wrist forcefully; **To be determined**
  - c. you accused [Ms X] of stretching your vest and then assaulted [Ms X] by pushing her. **To be determined**
15. In [XXX], whilst driving and accompanied by [Ms X] as passenger in your vehicle, following an argument with [Ms X], you behaved in a threatening manner towards her in that you:
- a. began punching the steering wheel of your car whilst driving; **To be determined**
  - b. drove your car on to the pavement. **To be determined**
16. In [XXX], you behaved in an abusive manner towards [Ms X] when, without her consent, on one or more occasion you:
- a. opened [Ms X]'s eyelid whilst she was sleeping; **To be determined**
  - b. recorded videos of the behaviour referred to at paragraph 16a. **To be determined**
17. Between [XXX], you behaved in an abusive and / or threatening manner towards [Ms X] on one or more occasion when holding:
- a. scissors to your wrist whilst indicating you would harm yourself; **To be determined**
  - b. a knife to your throat whilst indicating you were going to harm yourself. **To be determined**
18. In [XXX], you assaulted [Ms X] by forcing her: **Amended under Rule 17(6)**
- a. hands around the handle of a kitchen knife; **To be determined**

- b. to hold the knife referred to in paragraph 18a to your neck. **To be determined**

19. Between [XXX], on one or more occasion, you threatened [Ms X] by stating that you would subject her to waterboarding, or words to that effect.

**Amended under Rule 17(6)**

**To be determined**

20. Between [XXX], on one or more occasion, you threatened [Ms X] by stating that:

- a. you would present [Ms X]’s dead body to her parents; **To be determined**
- b. if [Ms X] ever became pregnant you would use a wire from a coat hanger and make sure the baby is not viable,

or words to that effect. **To be determined**

21. In [XXX], you complained that the food cooked by [Ms X] was too hot and then:

- a. assaulted [Ms X] by forcefully holding her hands behind her back; **To be determined**
- b. behaved in a threatening manner by punching the wall. **To be determined**

22. On [XXX], you behaved in:

- a. an abusive manner towards [Ms X] when shouting at her; **To be determined**
- b. a threatening manner towards [Ms X] when:
  - i. stating, in response to [Ms X] calling police, ‘I’ll show you what [XXX] is,’ or words to that effect; **To be determined**
  - ii. obtaining a knife and holding it so that it was visible to [Ms X]; **To be determined**
  - iii. threatening [Ms X] with a knife. **To be determined**

23. Between the evening of [XXX] and early hours of the morning [XXX], at the [XXX] in [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **To be determined**

24. Your actions as set out at paragraph 23 above were:

a. carried out without:

i. [Ms X]’s consent; **To be determined**

ii. you having a reasonable belief that [Ms X] was consenting; **To be determined**

b. sexually motivated. **To be determined**

25. At or around 07:00 to 08:00 on [XXX], at the [XXX] in [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **Admitted and found proved**

26. Your actions as set out at paragraph 25 above were:

a. carried out without:

i. [Ms X]’s consent; **To be determined**

ii. you having a reasonable belief that [Ms X] was consenting; **To be determined**

b. sexually motivated. **To be determined**

27. Between [XXX], whilst [XXX] with [Ms X] [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **Admitted and found proved**

28. Your actions as set out at paragraph 27 above were:

a. carried out without:

i. [Ms X]’s consent; **To be determined**

ii. you having a reasonable belief that [Ms X] was consenting; **To be determined**

- b. sexually motivated. **To be determined**

Possession of images, videos and documentation on your electronic devices

29. Between 1 July 2007 and 24 October 2017, on one or more occasion, you participated in the creation of a series of photographs listed in Schedule 1 below, including those in which you:
- a. posed for photographs, listed in Schedule 1, whilst in possession of what appears to be prohibited weapons, as defined by the Firearms Act 1968 (as amended), and some of the photographs were taken by third parties; **To be determined**
  - b. posed for photographs, listed in Schedule 1, whilst in possession of a large quantity of knives and with an axe and some of the photographs were taken by third parties; **Admitted and found proved**
  - c. posed for a photograph, listed in Schedule 1, whilst holding a serrated folding lock knife (an offensive weapon) and the photograph appears to have been taken by a third party; **To be determined**
  - d. posed for a photograph, listed in Schedule 1, whilst holding a serrated folding lock knife (an offensive weapon) to the throat of [Ms X] and the photograph appears to have been taken by a third party; **To be determined**
  - e. posed for a photograph, listed in Schedule 1, dressed in paramilitary clothing, and the photograph appears to have been taken by a third party; **To be determined**
  - f. posed for a photograph [a 'selfie'], listed in Schedule 1, whilst holding what appears to be a prohibited weapon, as defined by the Firearms Act 1968 (as amended); **To be determined**

- g. posed for a photograph holding what appears to a Russian Rocket launcher, listed in Schedule 1, and the photograph appears to have been taken by a third party; **To be determined**
- h. ~~sent~~ Created a Snapchat message showing what appears to be prohibited and offensive weapons which included the message 'who wants to play...'.  
**Amended under Rule 17(6)**  
**To be determined**

30. You retained possession of:

- a. the images set out at paragraph 29 above and listed in Schedule 1;  
**Admitted and found proved**
- b. a quantity of sensitive material linked to suspected terrorists involved in the '9/11' attacks, listed in Schedule 1; **To be determined**
- c. material relevant to making an ignition device, which you downloaded, listed in Schedule 2. **To be determined**

31. On a date prior to 19 January 2018, on one or more occasion, you downloaded and / or viewed and / or retained: **Amended under Rule 17(6)**

- a. video footage of beheadings and or killings, as set out in Schedules 3 and 4; **Amended under Rule 17(6)**  
**To be determined**
- b. an image of a waterboarding device. **Admitted and found proved**

32. Your actions and the course of conduct as set out at paragraphs 29 - 31 above risked bringing the profession into disrepute. **To be determined**

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

## The Admitted Facts

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

### Witness Evidence

17. Because the hearing was held remotely, all witnesses gave evidence by means of video link. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Ms X;
- Mr F, Security Section Leader at Asda XXX;
- DC G gave evidence to the Tribunal about the conduct of the police investigation into the allegations relating to Dr Talibi.

18. Dr Talibi provided his own witness statements dated 4 January 2024, 15 April 2024 and 16 April 2024 and also gave oral evidence at the hearing. In addition, the Tribunal received evidence from the following witnesses on Dr Talibi's behalf:

- Dr H;
- Mr I;
- Mr J;
- Mr B.

### Expert Witness Evidence

19. The Tribunal also received evidence from

- XXX;
- XXX;
- Mr N gave evidence to the Tribunal in relation to paragraph 30(c) of the Allegation;
- Mr C's report was read to the Tribunal in relation to paragraphs 29 to 32 of the Allegation.

## Documentary Evidence

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

- Police witness statements of Ms X dated XXX;
- XXX;
- Ms X's handwritten notes;
- Ms X's timeline of events;
- Photographs and screenshots of text and WhatsApp messages between Ms X and Dr Talibi;
- Dr Talibi's transcript of police interview and record of taped interview with West Midlands Police;
- Dr Talibi's handwritten prepared statement to the police;
- Photographs with descriptions from West Midlands Police and summaries of various recordings contained on Dr Talibi's electronic devices;
- Dr Talibi's schedule of Admissions;
- Articles titled 'Fabrication of aluminium flake powder from foil scrap by a wet ball milling process' and 'Manufacturing of aluminium flake powder from foil scrap by dry ball milling process';
- Dr Talibi's internet activity record dated 19 January 2018;
- Memorandum of conviction (x2) regarding Dr Talibi's speeding Convictions;
- Email from Mr F to Mr O at Asda House dated 6 April 2019;
- EDF Energy call recording;
- Letter from EDF Energy to the GMC with enclosures dated 25 January 2019.

## The advice of the Legally Qualified Chair

21. The legally qualified chair reminded the Tribunal of the burden and standard of proof. He also advised the Tribunal about the decision of the High Court in *Roach v GMC [2024] EWHC 1114*, which he advised drew upon a long line of authorities which should guide the Tribunal in its decision-making.

22. With regard to the burden of proof, he advised the Tribunal that because the burden of proving each paragraph of the Allegation rests upon the GMC, the Tribunal should not resolve conflicting accounts by simply asking which account it prefers but should instead ask whether the GMC had discharged the burden of proving that the version it advances is correct.

23. Turning to the allegations which depend essentially upon one person's word against another's, he advised the Tribunal of the approach set out in the case of Roach (above): firstly, the Tribunal needed to assess whether the GMC had discharged the burden of proof by considering whether to accept that the evidence of the witness or complainant was sufficiently credible in itself and when compared with all the other evidence.

24. If [her] evidence was insufficiently credible, [in the context of any supporting evidence] there is no need to go further.

25. If it is – the Tribunal needs to consider whether the GMC has discharged the burden of persuading it that her evidence is to be preferred to Dr Talibi's evidence.

26. With regard to the standard of proof, there is only one civil standard of proof in all civil cases, and that is proof that the fact in issue more probably occurred than not. "The test is the balance of probabilities nothing more and nothing less".

27. There is no heightened civil standard of proof in particular classes of case. In particular, it is not correct that the more serious the nature of the allegation made, the higher the standard of proof required.

28. The inherent probability or improbability of an event is a matter which can be taken into account when weighing the evidence in deciding whether the event occurred. Where an event is inherently improbable, it may take better evidence to persuade the judge that it has happened. This goes to the quality of evidence.

29. However, it does not follow, as a rule of law, that the more serious the allegation, the less likely it is to have occurred. Whilst the Tribunal may take account of inherent probabilities, there is no logical or necessary connection between seriousness and probability. Thus, it is not the case that "the more serious the allegation the more cogent the evidence needed to prove it".

30. When making any finding of fact (and in particular one that could have serious adverse consequences for the doctor) the Tribunal should be satisfied that there is sufficient evidence to come to that conclusion, it should identify the evidence clearly and it should explain its reasons for finding it to be sufficient.



31. When assessing the evidence, the Tribunal should have regard to the following “well known methods” commended in *Roach* (above):
- a. By comparison with the contemporaneous medical notes.
  - b. By assessing whether the chronological accounts given by each of the witnesses have been internally consistent or are contradictory or have been embellished.
  - c. By assessing whether the accounts are consistent with external evidence and
  - d. are corroborated by other witnesses or by objective documentary evidence including the medical notes.
  - e. By assessing the witnesses’ behaviours peripheral to the asserted core evidence to see if they support the asserted core evidence.
  - f. By assessing the witnesses’ motivations, mental health and past history.
  - g. By assessing the witness’ demeanour and way of giving live evidence in the hearing.
  - h. In cases where there is no medical record and no third party contemporaneous note, the credibility of the protagonist and the antagonist may be more difficult to assess. Post event words and actions may be indicative or determinative.
  - i. Throughout all of these filters, the Court will take into account that memory is not perfect, it stores only what the witness saw, heard, smelt or read, it degrades with time, it may be manipulated quite honestly by the witnesses’ desire to be right or justified and it may be manipulated consciously or unconsciously when it is accessed by questioning for the purposes of writing witness statements.
  - j. It is likely to be for that reason that the court in *Roach* commended the Tribunal for relying more heavily upon statements given to the police nearer the time rather than later embellishments. It is up to this Tribunal whether it follows that approach, but it is entitled to.
32. The LQC advised the Tribunal to be careful not to place too much reliance upon the demeanour of a witness and in particular, it must not decide whether it believes a witness purely on the basis of their demeanour and then ask if the surrounding evidence diminishes their finding. The High Court has reminded tribunals that can amount to reversing the burden of proof.
33. The LQC advised that this caution should be applied to its assessment of the behaviour of Ms X after the allegations of rape and when giving evidence. The Tribunal

should not assume it knows how a victim of sexual violence would behave or how an innocent person facing such an allegation would behave.

34. He advised that the Tribunal must assess the reliability and credibility of each witness in respect of each Allegation. A tribunal may find a witness to be credible and reliable on one matter and not another. A tribunal is not obliged to reject the whole of a witness's evidence because they told one lie or made one serious mistake about a matter. The task of the Tribunal is to consider whether the core allegations are true.

35. Nevertheless, the Tribunal should be aware of the findings it has made in respect of a witness's credibility or reliability and, when necessary, explain how it was able to come to different conclusions in respect of different parts of their evidence.

36. He reminded the Tribunal that it must not speculate but can draw inferences from the facts it has found proved.

37. He reminded the Tribunal that it is agreed that Dr Talibi has no previous convictions or cautions for any criminal offences, and the Tribunal heard from witnesses who spoke about Dr Talibi's personal qualities.

38. That included testimonial evidence to the effect that, in his social life and work he is regarded as an honest man and well thought of. The witnesses were aware of his admission of dishonesty. There is evidence that – however foolish and ill advised his use of language may be - he does not in fact harbour any racist feelings. They describe him as respectful towards women.

39. That did not mean Dr Talibi cannot have acted as he is alleged to have done towards Ms X, but it is something which the Tribunal should bear in mind to his advantage as indicating it is less likely that he would have behaved as he is alleged to have done with regard to Ms X.

40. The LQC advised that the Tribunal should also weigh his good character in the balance against his admitted example of dishonesty when deciding what weight the Tribunal should give to his evidence.

41. How much weight the Tribunal attached to Dr Talibi's good character is entirely a matter for the Tribunal, in light of all the evidence.

42. With regard to dishonesty, the LQC advised the Tribunal that the burden of proving dishonesty rests upon the GMC and the standard of proof is the balance of probabilities. There is no enhanced standard of proof although this Tribunal will of course approach such a

serious Allegation with the care that it merits and, if it makes a finding of dishonesty, identify the evidence upon which it relies and explain why it leads it to that conclusion.

43. There is seldom direct evidence of dishonesty. It is something upon which the Tribunal is invited to draw an inference from the facts it finds.

44. He advised the Tribunal that the test for dishonesty was set out by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd 2017 UKSC 67*, Paragraph 74:

*“When dishonesty is in question the fact-finding tribunal must first ascertain- (subjectively) the actual state of the individual’s knowledge or belief as to the facts. (emphasise, having first established what did actually happen)*

*The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held.*

*When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”*

45. With regard to the meaning of “racist and/or discriminatory”, he advised the Tribunal to follow the reasoning of Johnson J in *PSA v Gen Ph Cl v Ali [2021] EWHC 1692*. At paragraph 21: *“The intention of the author or speaker is logically distinct from the meaning of the words. The two may align, or they may not... Meaning is an objective test, entirely independent of the defendant’s state of mind or intention”*

46. With regard to “sensitive” in 30(b) of the Allegation, the Tribunal could reach a conclusion upon the basis of the submissions it has heard. It should remember that finding 30(b) of the Allegation proved depended upon making a finding that the material referred to was “sensitive”.

#### The Tribunal’s Approach

47. In reaching its decision on facts, the Tribunal accepted the advice of the LQC and bore in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Talibi 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.

48. With regard to the advice that memories are less reliable than many think, the Tribunal reminded itself that it was resolving matters that allegedly took place between seven and eight years ago. The Tribunal observed that in this case there were a number of documents produced much nearer the time than the statements produced for the GMC and the oral evidence the Tribunal heard.

49. The Tribunal identified a number of those documents in its summary of the agreed matters set out below and deals with them when deciding each paragraph. In particular, when dealing with the matters relating to Ms X, the Tribunal had regard to the statement that Ms X made to the police on XXX. The Tribunal observed that this statement was typed, contained a statement at the beginning in which Ms X stated that the contents were true to the best of her knowledge and belief, and she signed at the bottom of each page.

50. For these reasons, the Tribunal concluded that the contents of this statement were more likely to be a reliable account of what occurred than either less formal accounts given by Ms X before she made her statement to the police or subsequent statements made after the passage of years.

51. The Tribunal observed that, in subsequent statements made to the GMC, Ms X either recalled some events differently or recorded matters that were not recorded at the time.

52. The Tribunal did not accept that it should reject everything that Ms X had said but concluded that it should treat with extreme caution any matter recalled subsequently (in particular several years later) and where Ms X's account has changed, it should proceed on the basis that the account she gave to the police and signed is more likely to be an accurate account.

### **Agreed and undisputed facts**

53. Before turning to each of the disputed paragraphs of the Allegation, the Tribunal set out those matters which are either formally admitted or not in dispute.

- Dr Talibi carried out part of his surgical training in South Africa in 2012. During that time, he acquired a photograph of himself conducting brain surgery. In 2015, Dr Talibi uploaded this photograph onto a dating website. This is the subject matter of

paragraphs four and five of the Allegation, which Dr Talibi admitted at the start of the hearing.

- XXX, Dr Talibi began a relationship with XXX, known throughout these proceedings as Ms X.
- During the course of that relationship, Dr Talibi took a number of photographs of both Ms X and himself, some of which are the subject matter of the allegations. He also made a number of audio recordings which the Tribunal refers to below.
- In January 2017, Dr Talibi attended Birmingham Magistrates Court to be sentenced for driving offences and created an audio recording of the hearing. That recording is the subject matter of paragraph 10 of the Allegation, which Dr Talibi admitted at the outset of the hearing.
- At some time between January 2016 and August 2017, Dr Talibi made a recording of himself discussing XXX where he can be heard making the remarks set out in paragraph 11 of the Allegation, about “kuffar and white people”.
- In June 2017, Dr Talibi spoke by telephone to a representative of EDF energy about an electricity bill for £700 for his property for the period between 2 December 2016 and 2 June 2017. During that telephone call, Dr Talibi gave a false name and said that the charges had been incurred by a tenant who had been in the property and left owing rent after causing a significant amount of damage. There is no dispute that this account was entirely false and is the subject matter of paragraph 6 and 7 of the Allegation, which Dr Talibi admitted at the start of the hearing.
- XXX
- XXX
- XXX
- XXX
- On XXX Dr Talibi reported to the police that Ms X *“had been threatening for 12 months that she would make complaints of assault and rape if he did not do things that she requested from him. ... (Dr) Talibi asked for the allegation to be recorded only. He stated that he did not wish to make a formal complaint, provide a statement or*

*assist an enquiry and he also stated that he did not wish for ([Ms X]) to be spoken with regarding the allegations.”*

- XXX
- XXX
- On a date in XXX, Ms X spoke about XXX to a colleague who made notes of that conversation and gave the notes to Ms X. Those notes were before the Tribunal and are described in this determination as “colleagues notes”.
- On XXX, Ms X made a statement to the police, containing various allegations including rape. The Tribunal refers to this document as Ms X’s police statement.
- XXX
- XXX
- On 24 October 2017, Dr Talibi was arrested and searches of his parents’ home, his mobile phone and his computers revealed the images which are listed in Schedule 1 of the Allegation and give rise to paragraphs 29-32 of the Allegation.
- On XXX, Ms X was assessed by a psychiatrist who wrote a report which is undated in the Tribunal’s bundle.
- Following his arrest, Dr Talibi was interviewed by West Midlands Police
  - a. On XXX (“Dr Talibi’s first police interview”)
  - b. On XXX (Dr Talibi’s second police interview”)
- On 22 May 2018 Dr Talibi was referred to “Prevent” by the West Midlands Police. An investigation was carried out into him, including by the West Midlands Counter Terrorism Digital Media Exploitation Unit, and the authorities concluded that he was neither involved in terrorism nor a terrorist sympathiser. The GMC emphasised throughout that they do not seek to go behind that finding and the Tribunal accepted those decisions in its approach throughout this determination.

**Matters relied upon by Mr Peacock related to the reliability of Ms X**

54. Mr Peacock raised through cross examination and submissions, a number of reasons beyond the difficulties of memory why, in his submission, Ms X was an unreliable witness.

55. By far the most important of these, in the Tribunal's view, was that Ms X XXX.

56. The Tribunal accepted that it was clear from the correspondence that Ms X did not merely XXX that no sexual intercourse had taken place since XXX but gave a detailed account of how this had occurred, XXX.

57. The Tribunal was satisfied that this account must be untrue, because both Ms X and Dr Talibi agree that sexual intercourse took place XXX, although there was a significant dispute about the circumstances.

58. Ms X was cross-examined about this and explained that she could not deal with sexual matters when speaking to XXX because her mother was present.

59. The Tribunal found that Ms X's XXX were deeply concerning because they were untrue and given for the purposes of court proceedings, which it is acknowledged were begun. The Tribunal also found that the position was made more concerning by Ms X's failure to acknowledge what she had done.

60. The Tribunal concluded that Ms X was certainly capable of giving an untrue account of something. Nevertheless, having regard to all the evidence, the Tribunal did not conclude that it should simply reject the whole of her evidence, any more than it would reject the whole of the evidence of Dr Talibi because he had been dishonest.

61. The Tribunal found that Ms X had a clear motive, at the time she XXX, to deny that any sexual intercourse had taken place XXX.

62. In those circumstances, the Tribunal examined whether Ms X had a motive to be dishonest in these proceedings. Mr Peacock submitted that she did have a motive, namely revenge for being rejected, when Dr Talibi XXX.

63. The Tribunal found that rejection cannot provide a motive for Ms X to fabricate allegations to the Tribunal because, according to Dr Talibi's account to the Tribunal, Ms X threatened him with false allegations while they were XXX, and according to his report to the police in XXX, she had been threatening him for longer than that.

64. The Tribunal also bore in mind that the dishonest account that Ms X gave to XXX tended to minimise any wrong doing by Dr Talibi rather than make false allegations against him.

65. Mr Peacock also drew the Tribunal's attention to the report made by the psychiatrist who Ms X had consulted XXX, five days after she had given a statement to the police alleging rape.

66. Mr Peacock reminded the Tribunal that, although Ms X touched upon questions of "[XXX]", she did not mention rape.

67. When cross examined, Ms X initially said she had not been ready to reveal that she had been raped and when she was reminded that she had already made a statement to the police, she told the Tribunal that she had been referred to the psychiatrist by her work and did not yet trust her in the way she trusted the police officer who took her statement.

68. Related to this, Mr Peacock submitted that Ms X had not reported rape as early as she could, and the allegation had "developed over time".

69. The Tribunal rejected the submission that Ms X's delay, such that it was, in reporting rape was significant in the circumstances. It acknowledged that there may be a concern that Ms X's allegations had developed since her initial complaint to the police and the Tribunal must be careful about this. However, it was not sufficient to undermine the original, core allegations.

70. Mr Peacock also reminded the Tribunal that Ms X had described Dr Talibi being searched at the airport and having various hiking or camping items, including knives, and submitted that this must be untrue.

71. The Tribunal did not think this last matter was significant, in view of Dr Talibi's account that he had in fact taken a significant amount of the material alleged, apparently at Ms X's instigation.

72. Taking all these matters together, and having regard in particular to the instructions, Ms X had given to XXX, the Tribunal decided it should not reject Ms X's evidence out of hand but must approach it with care, examine her motives, if any, and look for consistency in her account before deciding it could accept her evidence.



## The Tribunal's Analysis of the Evidence and Findings

73. The Tribunal considered each outstanding paragraph of the Allegation separately and evaluated the evidence in order to make its findings on the facts. Unless there is a good reason not to, the Tribunal examined the accounts of witnesses in the order they were recorded.

### Paragraph 1(a)(i)

74. The Tribunal reminded itself of the evidence of Mr F, Security Section Leader at Asda XXX. On 26 May 2017, he made a note which recorded:

#### *'Incident Description*

*MALES WENT THROUGH TILL 42 HYBRED AND COVERED THE BAR CODE OF THE MILK POWDER AND THEN PROCEDED TO PAY FOR OTHER GOODS BUT NEVER PAID FOR MILK VALUE £23.50 STOPPED OUTSIDE AND DETAINED BOTH WERE BEING UN PROFESSIONAL DRS AND KEPT TRYING TO OFFER BRIBES WHICH WE DECLINED MALES WENT THROUGH TILL 42 HYBRED AND COVERED THE BAR CODE OF THE MILK POWDER AND THEN PROCEDED TO PAY FOR OTHER GOODS BUT NEVER PAID FOR MILK VALUE £23.50 STOPPED OUTSIDE AND DETAINED BOTH WERE BEING UN PROFESSIONAL DRS AND KEPT TRYING TO OFFER BRIBES WHICH WE DECLINED'*

75. The Tribunal also reminded itself of the email sent on 6 April 2019 by Mr F to Mr O, Operational security analyst at Asda House who had been contacted by the GMC to obtain a statement. In his email Mr F stated:

*'I kept saying we just need id then we could sort it out instore. Then the two males got out there wallets and started to un ravel money notes and make suggestions and said im sure we can come to some arrangement to which i said no straight away and said that is called bribery and said if it continued then i would calll police.'*

76. In his witness statement to the GMC dated 18 July 2019, Mr F stated:

*‘...from memory, they covered their hand in front of scanner when passing the baby milk through. I was watching them, and the milk didn’t scan and then they added it to the bagging area. I can’t recall if it was just one of the males holding their hand in front of the scanner, or whether they both did it.*

...

*They had also started to imply bribery. They never directly said ‘if we give you £100 etc. this can go away’, but one of them got his money out. I can’t recall which of the [XXX] this was, but I recall that it was the one on the right in the CCTV. One was a bit quieter and one got the money out. He started pulling it out of his wallet and counting through it and said, ‘I’m sure there’s another way that we can sort this out.’ I knew what he was implying, so straight away I shut him down’.*

77. In his oral evidence Mr F said on more than one occasion that *‘the hand was over the barcode, so they have made the action to scan it but they made sure that the hand was over the barcode’.*

78. On the basis of this evidence alone, the Tribunal would not be able to decide who had scanned the items and who, if anyone, had offered money to Mr F.

79. However, the Tribunal had regard to the handwritten prepared statement that Dr Talibi made with his solicitor at the police station on 14 January 2018. In that statement he said *‘I purchased a number of items. Unfortunately I inadvertently omitted to scan in the baby milk... It was not my intention to steal the milk and I had taken it out of the store without scanning it by mistake’.*

80. The Tribunal observed that this statement was not a record of answers he gave to police questions, but a written statement he made with the assistance of his solicitor and then signed.

81. The Tribunal also had regard to Dr Talibi’s witness statement dated 4 January 2024, in which he stated:

*‘...I cannot recall which one of us scanned the milk powder. We certainly would not have scanned the items together. In any event I accept that it had not properly*

*scanned, though I deny that this was deliberate. When we had finished scanning the items and paid, we attempted to leave the store. I was not aware at this point that the milk powder had not scanned. While walking out we were stopped by a security guard and asked for a copy of our receipt. On noticing that the milk powder had not been paid for, he asked us to go back inside the supermarket and into a side office.*

*...During what felt like an interrogation, I offered to pay for the milk powder. I told him that I had cash and money in an effort that he would understand that I did not need to steal the item. I did not offer the security guard any money to not involve the police in the matter.'*

82. In his oral evidence, Dr Talibi said that he could not remember who had scanned the items, but it was Mr D who had paid for the items because they were for him.

83. Looking at all the evidence, the Tribunal concluded that it is most likely that the person who scanned the items at the till was Dr Talibi because this is what he told the police in his handwritten prepared statement. Whether or not he recalled this subsequently in 2024, the Tribunal was satisfied this was more likely. Even though Dr Talibi said to the Tribunal that he cannot remember, it was also consistent with the evidence in his GMC witness statement that it was he who offered the money for the items. The Tribunal was therefore satisfied that Dr Talibi was the person doing the scanning at the till.

84. The Tribunal was satisfied from Mr F's consistent evidence that the bar code on the item of milk powder had been covered by a hand and the evidence as a whole established that it was likely that it was Dr Talibi's hand that covered it.

85. Accordingly, the Tribunal found paragraph 1(a)(i) of the Allegation determined and found proved.

#### Paragraph 1(a)(ii)

86. The remaining issue for the Tribunal was whether the covering of the bar code was done intentionally. The Tribunal concluded that it was at best extremely difficult to understand how a person could find a bar code to scan it and then conceal it inadvertently/accidentally with their hand.

87. The Tribunal noted that Dr Talibi had always maintained that it was an accident that the milk powder was not scanned. Nevertheless, the Tribunal noted the significant inconsistencies between what Dr Talibi told the police in a handwritten prepared statement and what he told the GMC in his witness statement and the Tribunal in his oral evidence.

88. In all the circumstances, the Tribunal was satisfied that, it was more likely than not that Dr Talibi intentionally ensured that he did not scan the barcode on the item of milk powder by covering the barcode with his hand to prevent it from being scanned.

89. Accordingly, the Tribunal found paragraph 1(a)(ii) of the Allegation determined and found proved.

Paragraph 1(c)(ii)

90. On the evidence of Mr F alone it was not clear to the Tribunal who had offered to pay him. However, on the basis of Dr Talibi's evidence in his statement to the GMC, the Tribunal was satisfied that the person who offered any money to Mr F was Dr Talibi himself. He was consistent in saying that he was preparing to offer to pay and said that he did pay in the end. The Tribunal therefore concluded that it was most likely Dr Talibi who offered money.

91. The Tribunal noted Mr F's GMC witness statement in which he stated:

*He started pulling it out of his wallet and counting through it and said, 'I'm sure there's another way that we can sort this out.' I knew what he was implying, so straight away I shut him down.*

...

*'I spoke to the store general manager and told them that it didn't sit right with me what had been said about sorting it out another way. I said that it seemed like they were going to bribe me and I asked do I ring the 'ethics hotline', which is a work line available for Asda colleagues. Attempted bribery is obviously a fairly important thing in store the manager said that they were not certain, but that there was no harm in ringing them. I called the ethics hotline, and told them that I work on behalf of Asda and they gave me a reference number and a pin. '*

92. The Tribunal observed that this statement had been made two years after the index event. However, it was consistent with Mr F's brief note at the time, in which he stated

*‘BOTH WERE BEING UN PROFESSIONAL DRS AND KEPT TRYING TO OFFER BRIBES WHICH WE DECLINED’.*

93. The Tribunal noted that Mr F’s concern about the potential bribery was such that he discussed it with his manager at the time. This was consistent with the note he also made at the time and the email he later sent to Mr O, Operational security analyst at Asda House. The Tribunal concluded that this supported his version of events in 2019 and 2024.

94. The Tribunal concluded that Dr Talibi’s account was less believable as it simply made no sense as to why he would offer to pay in the way he described, by taking money out to show that he could afford it, when the simple solution was to offer the same card he had used to buy the other items before and say explicitly that he wanted to pay for the milk powder.

95. The Tribunal also noted that he was a man without any previous convictions for dishonesty. However, the Tribunal had to set that against the fact that Dr Talibi admitted that only 4 weeks later he took part in a significant deception valued at the sum of £770. Therefore, looking at the position as a whole, the Tribunal preferred Mr F’s version of events.

96. Accordingly, the Tribunal found paragraph 1(c)(ii) of the Allegation determined and found proved.

#### Paragraph 2

97. The Tribunal reminded itself that it has already found that Dr Talibi covered the barcode on the packet of milk powder so that it was not included in the items to be paid for. The Tribunal also reminded itself that Dr Talibi had told the police that he paid for the other items when he and Mr D left Asda.

98. In those circumstances, the Tribunal is satisfied that Dr Talibi knew he had failed to pay for the milk powder when he left Asda.

99. Accordingly, the Tribunal found paragraph 2 of the Allegation determined and found proved.

#### Paragraph 3

100. The Tribunal reminded itself of the test laid down by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd 2017 UKSC 67*.

101. The Tribunal reminded itself of its findings that Dr Talibi had intentionally covered the barcode on the milk powder, left without paying for that item and knew that he had failed to pay when he left Asda.

102. The Tribunal asked itself whether “ordinary decent people” would regard Dr Talibi’s behaviour as dishonest. The Tribunal was satisfied that Dr Talibi’s actions effectively amounted to theft and ordinary decent people would find that dishonest.

103. The Tribunal therefore determined that Dr Talibi’s actions as set out at paragraphs 1(a), 1(b) and 1(c)(ii) above were dishonest by reason of paragraph 2.

104. Accordingly, the Tribunal found paragraph 3 of the Allegation determined and found proved.

Paragraphs 11(a)(i) to (iii)

105. The Tribunal listened to the voice recording of Dr Talibi. The Tribunal heard him say, that he hates ‘Afghan culture’, ‘hates kuffar’ and ‘white people’ during the recording. The Tribunal noted that the remarks were made in English.

106. The Tribunal had regard to Dr Talibi’s GMC witness statement dated 4 January 2024, in which he stated:

*‘I accept that during a frustrated phone call in the lead up to [XXX] in relation to catering arrangements that I became impatient and frustrated, and I said that I hated Afghan culture, kuffar and white people and that I hate this country and Afghan people equally.*

*This was said in the heat of the moment and nothing at all was meant by it. I was expressing nonsense and my frustrations at some of the formalities required for [XXX]. I do not think I am the first [XXX] to be frustrated by [XXX].’*

107. The Tribunal noted Mr Peacock’s submissions and was satisfied that the relevant words were said in English even though much of the conversation was in XXX and indeed during the recording Dr Talibi insists, with regard to the passage above, that he is ‘going to say this in English’.

108. The Tribunal looked at the word ‘comment’ and reminded itself that the words “comment”, and “statements” were agreed to have the same meaning in the context of this case. The Tribunal was satisfied that a comment or statement is any expression made orally or in writing except a question or the repetition of what somebody else has said.

109. The Tribunal reminded itself of the relevant case of *PSA v GPhC & Ali [2021] EWHC1692 (Admin)*, in particular paragraph 21 which states:

*‘...The intention of the author or speaker is logically distinct from the meaning of the words. The two may align, or they may not.*

...

*“Meaning is an objective test, entirely independent of the defendant’s state of mind or intention. Malice is a subjective test, entirely dependent on the defendant’s state of mind and intention.”*

110. The Tribunal therefore could see no reason, in this context, to treat the word discriminatory any differently.

111. With regard to Dr Talibi’s intent and state of mind, the Tribunal heard a significant body of evidence from witnesses called on behalf of Dr Talibi to the effect that he does not harbour any hatred towards anybody, either Afghan people or British people and that any views he expressed were not his true beliefs. However, because of the law as set out above, that was not something that the Tribunal was required to decide at this stage. This may become important at stage 2 and the Tribunal will return to it then.

112. In regard to paragraph 1(a)(i) the Tribunal concluded that to say that you do not like / hate someone’s culture was a discriminatory comment although not, on the face of it racist.

113. In regard to paragraph 1(a)(ii), the Tribunal treated this as a single statement. The Tribunal heard evidence from witnesses from both the GMC and Dr Talibi that sometimes the

word 'kuffar' was pejorative and sometimes it was not. The Tribunal concluded that if the word kuffar was sometimes used in a racist sense, then it should be viewed this way in this sentence, where it is connected with the word hate. The Tribunal concluded that this comment was racist and discriminatory.

114. In regard to paragraph 1(a)(iii) the Tribunal concluded that the expression of hating the country may not in itself be discriminatory or racist but when you look at the expression 'I hate Afghan people equally', it was clear that Dr Talibi was not speaking politically but that he hates the people. The Tribunal concluded that to say that you hate two nationalities, on the face of it, was a racist comment.

115. Accordingly, the Tribunal found paragraphs 11(a)(i) to (iii) of the Allegation determined and found proved, to the extent set out above.

Paragraph 11(b)(i)

116. This allegation concerned the direct private communications between Dr Talibi and Ms X in the course, including the breakdown, of their relationship. The Tribunal approached this with caution, especially because of the dangers of misinterpretation.

117. The Tribunal reminded itself that in this case there were no recordings of the remarks allegedly made and the allegation relied entirely on the evidence of Ms X. There was a dispute, not only about what was said but also the meaning of the words used.

118. The Tribunal examined the evidence of Ms X and came to the conclusion that the allegations of what were said was not sufficiently specific nor were there any precise times, dates or occasions sufficiently identified for the Tribunal to be able to find that Dr Talibi said that he held a strong opposition to white culture, or words to that effect.

119. Accordingly, the Tribunal found paragraph 11(b)(i) of the Allegation not proved.

Paragraph 11(b)(ii)

120. The Tribunal had regard to Ms X's GMC witness statement dated 4 December 2020, in which she stated:



*‘Dr Talibi stated that he hates everyone who is not a Muslim and used the term Kuffar when referring to all those who are not Muslim.’*

121. The Tribunal also had regard to Ms X’s supplemental GMC statement dated 30 April 2024, in which she stated:

*“I have been asked whether I recall being present when Dr Talibi used the term ‘Kuffar’ when discussing [XXX]”. To clarify, he used the word all the time, not just in relation [XXX]. He used the word ‘Kuffar’ in relation to patients. ‘Kuffar’ means a non-believer in Islam. He would talk about patient or anybody around him who is a non-believer or white. He did not just use it in [XXX]. He used the word ‘kuffar’ in the course of the whole relationship.”*

122. In her oral evidence, Ms X told the Tribunal that Dr Talibi had referred to her as ‘kuffar’ because of the way she dressed and the music she listened to.

123. The Tribunal looked at Ms X’s evidence as a whole. It noted that, with the exception of Ms X’s account of the XXX, there was no specific example or any more detail that was sufficient to enable the Tribunal to find that Dr Talibi stated that he hated everyone who is not a Muslim, or words to that effect.

124. Accordingly, the Tribunal found paragraph 11(b)(ii) of the Allegation not proved.

#### Paragraph 11(b)(iii)

125. The Tribunal noted Ms X’s evidence regarding the word ‘kuffar’. She said in her evidence that it can be derogatory or not, depending on the context in which it is being used. Apart from the incident XXX the Tribunal concluded that it was not clear from Ms X’s evidence in what context Dr Talibi had used these words to her.

126. The Tribunal therefore concluded that the GMC had failed to discharge its burden of proof that Dr Talibi used the term kuffar in a derogatory way.

127. Accordingly, the Tribunal found paragraph 11(b)(iii) of the Allegation not proved.

#### Paragraphs 14(a)(i) and (ii)

128. The Tribunal reminded itself that the only evidence about the events covered by paragraphs 14 to 27 of the Allegation derives directly or indirectly from Ms X and the Tribunal approaches this with the caution described above.

129. The Tribunal looked not merely at what Ms X had said to the GMC in her statements, or to the Tribunal in oral evidence. It looked at what she told her colleague and XXX before she made her statement to the police and what she told the psychiatrist afterwards. It looked in particular to see if any allegation was rooted in what she told the police in XXX.

130. The Tribunal read Ms X's account to the police in her statement in XXX in which she stated:

*...after about the [XXX] month into the relationship, his behaviour towards me started to change. Samed became aggressive and angry over petty matters and would say the most horrible, insulting and hurtful things to me. He would lose his temper, shout angrily and aggressively to me over matters such as me touching his designer prescription glasses in [XXX] library... For example when I hugged him and touched his glasses by accident at [XXX] library [XXX], Samed punched the wall behind me to threaten me and frighten me into not doing it again*

131. The Tribunal concluded that Ms X had been consistent in her GMC statement, her police statement and in her oral cross examination. The Tribunal also noted that in her police statement Ms X gave the location (XXX library) of where this incident took place which it considered was a telling detail.

132. The Tribunal observed that Ms X's description of Dr Talibi's loss of control and temper was consistent with the note she sent him at the time in which she said 'thank you... calm and not losing your temper'. The Tribunal concluded that this was an indication that Dr Talibi was losing his temper with her.

133. The Tribunal had regard to Dr Talibi's GMC witness statement dated 4 January 2024 in which he stated:

*'It is alleged by [Ms X] that I punched the wall and shouted aggressively towards her, threatening her in the library in [XXX] in 2016 having touched my glasses. This did not take place. I have no recollection of what she may be discussing. [XXX], but I do not recall punching a wall and shouting at her. In fact, the opposite. [Ms X] would often*

*punch and hit me especially in the face or head. I can recall an occasion when I was studying for the MRCS exams, and I was trying to focus while she was talking to me. I was refusing to pay attention to her to focus on my studies and she cried and slapped me in the face. I did not punch the wall or shout aggressively at her. I wear my glasses for martial arts training and [XXX], so my glasses are often knocked off. So, it would not have annoyed me to have had my glasses dislodged.'*

134. The Tribunal noted that not only did Dr Talibi deny the allegation he said that Ms X had been aggressive towards him.

135. The Tribunal noted (and refers to this below) that Dr Talibi contacted the police in XXX and complained that Ms X “had previously assaulted him and been blackmailing him”, that she had been threatening for 12 months that she was going to make serious allegations about him if he did not do the things she requested and “effectively become her slave”.

136. The Tribunal observed that Dr Talibi repeated this allegation in general terms when interviewed by the police but never gave the level of detail recalled by Ms X at the time.

137. The Tribunal had regard to Dr Talibi’s police interview transcript dated XXX in which he stated:

*‘...she can be very aggressive verbally and sometimes physically intimidating and humiliating. To me she has called me moron, idiot. She has called me all the names under the sun, “Are you stupid? Are you a moron?”...’*

138. The Tribunal noted that Dr Talibi accused Ms X at that time of being physically intimidating but he did not give any more detail about her allegedly assaulting him.

139. For the reasons set out above, the Tribunal found Ms X’s allegation to be credible because it was made to the police in XXX and contained significant detail in a way that Dr Talibi’s account did not.

140. Accordingly, the Tribunal found paragraphs 14(a)(i) and (ii) of the Allegation determined and found proved.

#### Paragraph 14(b)

141. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*'Samed then suddenly became so angry, he took his watch off and threw it at the wall which scared me and frightened me. He was showing me who was in control and showcasing his aggressive behaviour. I felt very shocked and scared when the watch hit the wall as he threw it with so much anger, force and aggression, it bounced off the wall and nearly hit me. He then continued his verbal abuse shouting at me and walked away.'*

142. The Tribunal had regard to Dr Talibi's police interview transcript dated XXX in which he stated:

*'...I was like I – in my face, in my face – touching my face, in my face, you know in my face like this all the time, so I put my hands behind my back. She goes, "Don't touch me, don't push" – put my hands behind my back. I put my hands behind my back. I said, "Listen, my hands are behind my back. I'm not being aggressive. I'm not being verbally, physically. I just want to stay in my own space" and she pushed me against the wall.*

*It scratched my new watch, which is the watch which I don't have anymore, and she said to me, and I said to her, "Thanks very much for scratching this new watch, which I bought", and I didn't shout. I didn't swear. I said, "Thanks very much for scratching it" and I just got annoyed and think I just left the house. I said, "You know what, I'm going to leave. I'm just going to leave. I don't want this.'*

143. The Tribunal noted that in the account in her police statement, Ms X described the watch incident, including Dr Talibi throwing it against the wall but she did not describe being assaulted by the grabbing of her wrists.

144. The Tribunal concluded that the allegation of physical assault was not rooted in Ms X's complaint to the police. The Tribunal therefore concluded that the GMC had failed to discharge the burden of proof that Dr Talibi assaulted Ms X by grabbing her wrists forcefully.

145. Accordingly, the Tribunal found paragraph 14(b) of the Allegation not proved.

#### Paragraph 14(c)

146. The Tribunal had regard to Ms X's police witness statement dated XXX, it stated:

*'...when I wore an item of his clothing as according to him I had "stretched it" which made him very angry and he forced me to remove the item of clothing immediately.'*

147. The Tribunal noted that Ms X had not described Dr Talibi assaulting her when describing the incident. The Tribunal therefore concluded that the GMC had failed to discharge its burden of proof that Dr Talibi accused Ms X of stretching his vest and then assaulted Ms X by pushing her.

148. Accordingly, the Tribunal found paragraph 14(c) of the Allegation not proved.

Paragraph 15(a)

149. The Tribunal had regard to Dr Talibi's police transcript, in which he stated:

*'Then the steering wheel episode, I had been on the phone post-work ordering food for each other. I ordered some food and they goes, "We've got no gourmet burgers" and I just went like that on the steering wheel. I'm banging my hand on the table to – I banged on the steering wheel. I said, "Oh buggers." I said, "Oh bloody bugger." You know, I maybe used an expletive. I said, "Ah you know just when you're looking forward to something" and she said, "You don't need to get upset", "Yes, okay fine. You're right. Let's just go somewhere else" and I think we got pizza or another take out fast food joint.'*

150. The Tribunal also had regard to Dr Talibi's GMC witness statement dated 4 January 2024, in which he stated:

*'[Ms X] has also alleged that In [XXX] I acted threateningly and punched the steering wheel of my car and drove my car onto the pavement. I had only bought the car in [XXX]. I deny that I would have punched the steering wheel while driving, as it would have been dangerous to do so. She was again arguing over something which was trivial. I may have tapped the steering wheel while making a point but not punched the steering wheel. Equally I would not have mounted my car on to the pavement as described. I would not mount the pavement as I would not want to put any*

*pedestrians at risk or want to damage the alloy wheels that had been recently refurbished.'*

151. The Tribunal noted the inconsistencies between Dr Talibi's police interview and his GMC witness statement. In his GMC statement Dr Talibi described that he 'may have tapped the steering' wheel which was not consistent with what he said to the police 'I banged on the steering wheel'.

152. The Tribunal found it unlikely that Dr Talibi would remember the incident at all if it had amounted to no more than he described in his GMC statement. However, it was of the view that this incident would have stuck in Ms X's mind because it was something that she said had frightened her.

153. For these reasons, the Tribunal found Ms X's account to be a credible and preferred her evidence to that of Dr Talibi.

154. Accordingly, the Tribunal found paragraph 15(a) of the Allegation determined and found proved.

#### Paragraph 15(b)

155. The Tribunal had regard to Ms X's police statement dated XXX, in which she stated:

*'I again asked Samed to stop the vehicle and let me out. I put my hand on the passenger car door to open it as I did not feel safe with him, he immediately drove the vehicle aggressively onto the pavement which left me shaking and frightened as he did not slow down and it was another scare tactic he employed on me to show me who was in control and to frighten me. I screamed out loudly as the front passenger side of the car where I was sitting hit the pavement suddenly with force, thrusting me on the side of the car. I felt very scared and started shaking in shock.'*

156. The Tribunal also had regard to Ms X's GMC witness statement dated 4 December 2020 in which she stated:

*'We were having a minor argument about where we were going to eat and he started punching the steering wheel, then he drove the car into a pavement. I think Dr Talibi did this to scare and punish me. Once Dr Talibi had driven the car over the kerb, the argument stopped, and I thought 'what is he doing now.' I wanted to get out of the*

*car, but I couldn't because Dr Talibi kept driving it into the pavement, which meant that it wasn't safe to open the door.'*

157. The Tribunal concluded that Ms X's accounts were consistent and contained significant detail. They were also consistent with the account that Dr Talibi when he was interviewed in XXX: 'she said you don't need to get upset'.

158. The Tribunal noted Dr Talibi's police transcript in which he stated:

*'It was [XXX] brand new, okay, brand new BMW with alloy wheels, which cost any amount of money to refurbish. I was not going to do anything stupid like that, and yeah nonsense. She – yeah – she's always – you know we've been in the car and she's argued at me even on the motorway and she said, "Stop the car now. I'm going to get out". I said, "What are you doing? You have a head on. What's this nonsense? I'm trying to drive safely and all you do is shouting in my ear. All you do is doing silly things. Behave like a human being, please." Nonsense.'*

159. The Tribunal noted Dr Talibi's GMC witness statement dated 4 January 2024 in which he stated:

*'Equally I would not have mounted my car on to the pavement as described. I would not mount the pavement as I would not want to put any pedestrians at risk or want to damage the alloy wheels that had been recently refurbished.'*

160. The Tribunal also took into account Dr Talibi's repeated denial of driving on the pavement during his oral evidence.

161. Nevertheless, the Tribunal found Ms X's account more persuasive than Dr Talibi's denial because it was consistent with how angry the Tribunal had already found Dr Talibi had been.

162. Accordingly, the Tribunal found paragraph 15(b) of the Allegation determined and found proved.

Paragraphs 16(a) and (b)

163. The Tribunal looked at all the evidence. It noted that this was not something that Ms X had reported to police. The Tribunal also noted that both Ms X and Dr Talibi agreed that they both took photographs of each other while asleep.

164. The Tribunal had regard to Ms X's evidence that she had found this recording of her with her eyes open and showed it to Dr Talibi. She said they then had a disagreement about it, he deleted the video and apologised.

165. In her oral evidence Ms X said that they had both been happy to take photographs of each other while asleep and that occurred with her consent. However, she felt that on this occasion it had been intrusive.

166. The Tribunal concluded that in the context of a relationship where it was agreed that both parties took photographs of each other while asleep and both were content with that. Even if Dr Talibi did go beyond what was agreed on this occasion, as soon as it was pointed out to him, he deleted the video and apologised. In those circumstances the Tribunal do not find that Dr Talibi's actions crossed the line into abusive behaviour.

167. Accordingly, the Tribunal found paragraphs 16(a) and (b) of the Allegation not proved.

#### Paragraph 17(a)

168. The Tribunal acknowledged that this paragraph of the Allegation does not allege that Dr Talibi directly threatened violence towards Ms X. Nevertheless, the Tribunal was satisfied that if proved, the alleged behaviour was both abusive and threatening.

169. The Tribunal concluded that in the circumstances described it was abusive of Dr Talibi to threaten self-harm with scissors or a knife. The Tribunal was also satisfied that a witness to such of an event, in particular one in close proximity, is likely to feel threatened.

170. The Tribunal had regard to Ms X's police witness statement dated XXX in which she gave a specific example of Dr Talibi threatening to harm himself and stated:

*'He then got some scissors from my room and threatened to cut his wrist, he grabbed the scissors and placed the sharp blades of the scissors to his wrist saying "DO YOU WANT ME TO CUT MYSELF AND MAKE ME BLEED? IS THAT WHAT YOU WANT? WILL THAT MAKE YOU HAPPY?"*



*I was very shocked at his behaviour and his bizarre out of control reaction and told him to calm down as I did not want him to hurt himself.'*

171. The Tribunal also had regard to Ms X's GMC witness statement dated 4 December 2020 in which she referred to her police statement as follows:

*'...where I talk about Dr Talibi grabbing a kitchen knife or a pair of scissors and threatening to harm himself. This happened repeatedly. During an argument, he would grab scissors [XXX], place them to his wrist and state "Do you want me to hurt myself?"*

172. In her oral evidence during cross examination Ms X did not resile from her written evidence.

173. The Tribunal noted that Dr Talibi did not address the allegation specifically in his GMC witness statement dated 4 January 2024 but made a clear denial, *'I do not recall any occasion where I threatened to harm myself with a knife'*.

174. The Tribunal noted Dr Talibi's evidence during his police interview on 14 January 2018. He refers to an incident when Ms X saw phone numbers of other women on his phone. He told the police:

*'I said I'm sorry about this. I said what do you want me to do? Do you want me to hurt myself? I said I'm sorry I've hurt you. Do you want me to equally hurt myself so we're equal now?'*

175. The Tribunal also noted that Dr Talibi denied threatening to harm himself if Ms X left him.

176. However, taking all of that together, including Dr Talibi's admission that he "offered" to harm himself, the Tribunal concluded that it was more likely than not that Dr Talibi had behaved in the abusive and / or threatening manner alleged towards Ms X on one or more occasion when holding scissors to his wrist and indicating he would harm himself.

177. Accordingly, the Tribunal found paragraph 17(a) of the Allegation determined and found proved.

Paragraph 17(b)

178. The Tribunal observed that it is not alleged that Dr Talibi directly threatened violence towards Ms X. Nevertheless, the Tribunal was satisfied that if proved, the alleged behaviour at paragraph 17(b) was both abusive and threatening.

179. The Tribunal observed that this was an allegation which Ms X made to the police in her police statement in which she stated:

*“We were both in the kitchen and Samed grabbed a kitchen knife with his right hand and again threatened to harm himself, by putting the knife to his own left wrist and said again “DO YOU WANT ME TO HURT MYSELF? IS THAT WHAT YOU WANT? WILL THAT MAKE YOU HAPPY?”*

180. The Tribunal had regard to Ms X’s GMC witness statement dated 4 December 2020 in which she stated:

*‘In other instances, he’d grab a kitchen knife and threaten to harm himself by holding it to his neck. I would like to clarify that I kept in close contact with my mum about all of these types of incidents.’*

181. The Tribunal also observed that Dr Talibi made photographs of knives in his home. Most of the knives were kitchen knives but a number, including an axe and a sword were not.

182. The Tribunal reminded itself of Dr Talibi’s evidence during his police interview on XXX. He refers to an incident when Ms X saw phone numbers of other women on his phone. He told the police:

*‘I said I’m sorry about this. I said what do you want me to do? Do you want me to hurt myself? I said I’m sorry I’ve hurt you. Do you want me to equally hurt myself so we’re equal now?’.*

183. The Tribunal also reminded itself of Dr Talibi’s GMC witness statement dated 4 January 2024, in which he stated:

*'I do not recall any occasion where I threatened to harm myself with a knife. I am aware from the contents of the bundle that there is a photo of me with a knife to my throat, but this was a picture taken as a joke. [Ms X] and I had taken a series of photographs. You can see from the expression on my face and [Ms X]'s that there is no malice or intent behind the actions.'*

184. Taking all evidence together, the Tribunal was satisfied that this was a credible allegation, made to the police in XXX and the Tribunal preferred the evidence of Ms X. It concluded that it was more likely than not that Dr Talibi held a knife to his throat whilst indicating he was going to harm himself.

185. Accordingly, the Tribunal found paragraph 17(b) of the Allegation determined and found proved.

Paragraphs 18(a) and (b)

186. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*"[XXX], Samed further showed his very violent and coercive behaviours during this time, when he took my hands and forcefully wrapped my hands over a sharp knife that he owned with his hands tightly over mine and preceded to angle the knife to his neck near the jugular vein to cause and inflict injury to himself whilst forcefully using my hands to do so. [XXX]. I got scared and kept pleading out STOP! STOP! PLEASE STOP! WHAT ARE YOU DOING? WHY ARE YOU DOING THIS?" ,*

187. The Tribunal also had regard to Ms X's GMC witness statement dated 4 December 2020, in which she stated:

*'...that in [XXX] Dr Talibi forcefully wrapped my hands over a sharp knife. I recall that a conversation had started about me trying to leave Dr Talibi because it wasn't working out. I was staying at Dr Talibi's house and I had said something along the lines of 'your behaviour is not very good; I'm leaving you; this is not working out.' He forced my hand around the handle as opposed to the blade, so I did not receive any injuries but this was very frightening. He forced me to put the knife towards his neck, but no injuries were caused to him. He always carried the same knife with him, wherever he went. It was a silver knife with a 6-inch blade.'*

188. The Tribunal observed that in the notes of what Ms X had shared with her colleague, Ms X referred to the use of knives by Dr Talibi.

189. The Tribunal also noted that in her oral evidence during cross examination, Ms X did not resile from her accounts. The Tribunal was of the view that this incident had stuck in her mind, and she identified the knife when asked.

190. The Tribunal noted that Dr Talibi did not give an account of anything specifically relating to this allegation. Nevertheless, the Tribunal acknowledged that Dr Talibi denies the allegation.

191. The Tribunal concluded that Ms X had mentioned knives in her notes, she had reported the incident to the police, she repeated it in her oral evidence, she was consistent and had given significant detail. In all the circumstances, the Tribunal was satisfied that, it was more likely than not that Dr Talibi assaulted Ms X by forcing her hands around the handle of a kitchen knife and holding the knife to his neck.

192. Accordingly, the Tribunal found paragraphs 18(a) and (b) of the Allegation determined and found proved.

#### Paragraph 19

193. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*'He threatened me at [XXX] and said "I WILL WATERBOARD YOU AND TRUST ME YOU WOULDN'T BE ABLE TO BREATHE. "Samed threatened to waterboard me if I was to mention his behaviour and mistreatment towards me to anyone else including my mother, He explained to me that he knew the technique of waterboarding and said he had studied it carefully. He used to laugh out loud when I questioned him why he would even think of carrying out such evil actions.'*

194. The Tribunal also had regard to Ms X's GMC witness statement dated 4 December 2020, in which she stated:

*'...there was a further incident in [XXX] where Dr Talibi threatened me with waterboarding. When Dr Talibi first threatened me, I asked him 'are you joking?', as I genuinely thought he was joking. Dr Talibi replied with something along the lines of 'no; I know what to do and I know how to do it.' He issued this threat on at least 4 or 5 occasions. I told my mum about this conversation, but she didn't know what waterboarding was. My mum didn't recognise the severity of what it meant. The police later found out that Dr Talibi had searched 'waterboarding' on his phone on the days around him threatening me with it.'*

195. The Tribunal acknowledged that Ms X did not mention this to her colleague and is not recorded in the colleague's notes.

196. The Tribunal noted that Ms X had set out in detail her account in her police statement. This was something Ms X was cross examined about in her oral evidence. Ms X did not resile from this evidence or change her account and remained consistent.

197. The Tribunal also noted that the allegation was to some extent supported by a screenshot of waterboarding kept in the house/found on Dr Talibi's phone.

198. The Tribunal had regard to Dr Talibi's written prepared statement he gave to the police in XXX. In it he said *"I have never made any comments to [Ms X] in regard to waterboarding"*.

199. The Tribunal had regard to the record of taped interview from Dr Talibi's police interview when he was asked by the police if he had ever threatened to waterboard Ms X. It is recorded as follows:

*'I don't know what it is.' (Tribunal's emphasis) He said that he can't recall researching it. He is shown that he googled waterboarding on [XXX]. Talibi said that he never threatened [Ms X] and he didn't know what it was. He said he never discussed this with [Ms X]. He said he was an Army reserve at University and was never trained in it."*

...

*DC P reads out the screenshot on Talibi's phone of waterboarding. Talibi states "I've never threatened [Ms X], verbally physically with waterboarding or any form of torture I don't know why that's on my phone I can't recall it". Talibi is asked if anyone has researched it on his phone. He replies, "no comment"*

*DC P explains to Talibi that [Ms X] states that he threatened to water board her. She said that you learnt that process in the Army. Talibi denies threatening her with any form of torture or waterboarding. He stated he has never been taught how to waterboard.*

200. In his GMC witness statement dated 4 January 2024, Dr Talibi in which he stated:

*'I also deny that I threatened to subject [Ms X] to waterboarding. I can recall that on one occasion that [Ms X] asked what waterboarding was. I googled it and showed her. At no point did I suggest doing it to her or threaten her with doing so.'*

201. In his supplemental GMC witness statement dated 15 April 2024, Dr Talibi stated:

*'I admit that I conducted a google search for waterboarding and took a screenshot of that image. I did so as I had been asked by [Ms X] what waterboarding was. I believe that it was [Ms X] who asked me owing to the timestamp of the image as it is late at night. I foolishly and naively googled the image and took a screenshot of the result. I did not do so in order to make a threat or out of any intention to carry out said act. I had Googled it as I didn't know how best to explain it to [Ms X] and I thought that it would be easier explained by google.'*

202. The Tribunal noted that during cross examination Dr Talibi offered another explanation for the first time. In explaining his searches of waterboarding, Dr Talibi's account was no longer that Ms X had asked generally about waterboarding but the issue of waterboarding had arisen because of a conversation about Halloween. Dr Talibi said he had wanted to show Ms X something about waterboarding while trying to explain to her what happened to witches in America in the 17th century.

203. The Tribunal rejected Dr Talibi's explanation given in his oral evidence. The Tribunal concluded that it was such a clearly deliberate fabrication that it lent support to Ms X's allegation in this case. The Tribunal also found that Dr Talibi's clearly untrue statement to the police that he did not know what waterboarding was, added weight to the allegation.

204. Accordingly, the Tribunal found paragraph 19 of the Allegation determined and found proved.

#### Paragraph 20(a)

205. The Tribunal had regard to the handwritten notes of what Ms X had discussed with her colleague before her police interview and statement. It noted what Ms X had written and told her colleague that Dr Talibi had said:

*‘...If you ever leave me I’ll kill you. I’m never going to let you go I’ll present your dead body to your parents’*

206. The Tribunal had regard to Ms X’s police witness statement dated XXX, in which she stated:

*‘I tried to leave this toxic and tempestuous relationship on many occasions. Each time he argued over me wanting to leave him and wanting to end the relationship. Samed threatened me saying, “IF YOU EVER LEAVE ME, I WILL PRESENT YOUR DEAD BODY TO YOUR PARENTS DOORSTEP AND SHOW THEM YOUR BLOOD. YOU CAN’T LEAVE ME.”*

*He has always told me that it's not ok for me to leave, as it would bring dishonour for him and his family When I questioned him about these threats, he said, IT'S DISHONOURABLE FOR A MAN WHEN HIS WOMAN LEAVES HIM." These threats of killing me and presenting my dead body really shocked me and scared me. I was frightened that he would carry these threats out and stayed with him out of fear. These threats were constant during our relationship and I felt trapped and unable to leave him.’*

207. The Tribunal also had regard to Ms X’s GMC witness statement dated 4 December 2020, in which she stated:

*‘...where I mention that Dr Talibi talked about presenting my dead body to my parents, I would like to confirm that this was not the first time that Dr Talibi had said this to me. I would estimate that he said this around 20-30 times [XXX]. He would say this whenever I suggested I wanted to leave him.’*

208. The Tribunal noted that Dr Talibi consistently denied that he had made any threat to harm Ms X. The Tribunal also noted the different accounts given by Ms X, who had expanded on what she initially said to indicate that Dr Talibi had threatened many times.

209. Nevertheless, the Tribunal concluded that it did not undermine the core, consistent allegation that Dr Talibi threatened her. The Tribunal was satisfied that this allegation was rooted in her account to her colleague and included in her statement to the police. The Tribunal also found the level of detail persuasive.

210. Accordingly, the Tribunal found paragraph 20(a) of the Allegation determined and found proved.

Paragraph 20(b)

211. The Tribunal noted Ms X's police witness statement dated XXX, in which she stated:

*'[XXX]. Samed threatened me and said, "IF YOU EVER GET PREGNANT, I WILL USE A WIRE FROM A COAT HANGER AND MAKE SURE THE BABY ISN'T VIABLE. "These evil threats made me feel sick and because of the way he had already acted towards me and his demeanour, I was scared that he may actually do what he threatened.'*

212. The Tribunal also noted Ms X's GMC witness statement dated 4 December 2020, in which she refers to her police statement as follows:

*'After that, he made the comment about the coat hanger as also referred on page 7 of [XXX]'. I didn't react to this; I just stayed silent and looked at Dr Talibi. I felt trapped, scared and frightened.'*

213. The Tribunal had regard to Dr Talibi's prepared statement which he made to the police when interviewed on XXX, in which he stated:

*'I confirm that I have never made any comments what so ever in relation to the termination of a pregnancy with the use of a coat hanger to [Ms X]. I am pro-life and [XXX] ...'*

214. In his oral evidence when cross examined, Dr Talibi denied the allegation and answered, *'no that's disgusting'*.

215. The Tribunal preferred Ms X's account. It was consistent with the threats to kill Ms X which the Tribunal have found proved. Ms X's account has been consistent. The Tribunal observed that she described to the police how frightened and sickened this made her feel



and she repeated this in her GMC witness statement. The Tribunal concluded that this made Ms X's account more credible.

216. Accordingly, the Tribunal found paragraph 20(b) of the Allegation determined and found proved.

Paragraphs 21(a) and (b)

217. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*'I then stood up to walk away from the [XXX] table where we were both sitting side by side. Samed shouted at me to sit down, and when I refused to do so, he became violent to me and he grabbed my left wrist and forcefully pulled me down back on the chair, grabbed my other right wrist with his other hand and secured both of my wrists behind my back, restraining me using aggressive force with his own hands. He then continued to shout at me and started violently shaking me and said "LISTEN TO ME BITCH, YOUR MAKING ME LATE FOR WORK. I'M GOING TO BE LATE NOW AND GET INTO TROUBLE BECAUSE OF YOU".'*

218. In her oral evidence during cross examination, Ms X remained consistent in her account.

219. In his GMC witness statement dated 4 January 2024, Dr Talibi stated:

*'I also deny that I complained that I assaulted [Ms X] and punched a wall when complaining that food she served was too hot. All I can think that this relates to was in [XXX] I was running late for work. I was trying to leave, and [Ms X] said that if I didn't eat the food it would go to waste and that I was selfish for not eating it. We had an argument, after which I ate as much of the dinner she had prepared and then went to work. I did not hold her hands behind her back or punch a wall.'*

220. The Tribunal observed that as well as denying that he had assaulted Ms X, Dr Talibi gave evidence that Ms X had assaulted him by punching him, kicking him in the groin and slapping his face, without giving a specific example.

221. The Tribunal read the transcript of Dr Talibi's interview by the police on XXX in which he said of Ms X "she can be very aggressive verbally and sometimes physically intimidating and humiliating. To me she has called me moron, idiot. She has called me all the names under the sun, "Are you stupid? Are you a moron?". However, he does not allege any specific incident of assault.

222. The Tribunal preferred the evidence of Ms X, who had been consistent in her account throughout. It concluded that Dr Talibi's account of violence by Ms X was a fabrication to conceal his behaviour towards her.

223. Accordingly, the Tribunal found paragraphs 21(a) and (b) of the Allegation determined and found proved.

Paragraphs 22(a), 22(b)(i) and (ii)

224. The Tribunal had regard to the handwritten notes that Ms X had discussed with her colleague before her police interview and statement. It noted what Ms X had written as follows:

*'shouting, I called the police, [XXX], he came into the room and pen knife abdomen framing me'*

225. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*'Things got worse throughout the night and his behaviour, verbal and emotional abuse towards me continued and I had to call the Police. I only managed to say a few words before I ended the call. I said '[XXX]' and my name and I'm not sure, but I think they could hear him in the background. I felt scared as this was the first time I had escalated the issue of [XXX] to the police. I had had enough. But I saw him getting angry and I quickly put the phone down. There was no way to escape at this point [XXX]. Samed was stood in the doorway to the exit [XXX].*

*Samed shouted "HAVE YOU CALLED THE POLICE?" and I said "YES." THIS IS [XXX] AND IT NEEDS TO STOP NOW. I CANT COPE WITH YOU ANYMORE." Samed got very angry and shouted at me, "[XXX]"*

*Samed then went back [XXX] where he kept an axe, knives and other sharp objects. Samed came back [XXX] and was holding a knife to his right side, in his right hand and was shouting,*

*"[Ms X] WHAT ARE YOU DOING? [Ms X] STOP, PLEASE STOP. [Ms X] I'M BLEEDING. [Ms X] WHY ARE YOU HURTING ME?" I think he thought I was still on the phone to the Police and didn't stop saying my name. He can be so conniving and coercive and lies all the time to save himself from getting into trouble and will blame others for his actions.*

*I again tried to calm him down, as I did not want him to hurt himself or me and could not believe what he was trying to do, especially lying about me trying to hurt him. I did not go near him and I did not touch him as the knife he was carrying was very sharp with a 6 inch blade, the same one in the picture I gave to Police. His threatening behaviour and violent actions continued for 10 minutes and during that time, I collapsed [XXX] crying inconsolably, as I was in a state of shock and disbelief that he wanted to harm himself and frame me and blame me for his violent behaviour. I could not make sense of the situation and I couldn't escape as he was stood in the doorway. I was scared for my life and scared that I would get hurt. I cried loudly [XXX] asking him to stop. I pleaded "STOP. STOP. JUST STOP PLEASE!"*

*After 10 minutes, he came over to me [XXX], on his knees; he put the knife down and rubbed my knees telling me "ITS OK". I told him it's not ok and asked him to leave [XXX]. I then locked the [XXX] door after Samed left and then rang [XXX] and cried to her telling her to "HELP ME. GET ME OUT OF HERE, IM NOT SAFE HERE", I told [XXX], that Samed had a knife and was being abusive, violent and he was behaving out of control. [XXX] immediately rang [XXX] and told her to call the police immediately. I found this out when ...arrived at the house later and the Police came.*

226. In her GMC witness statement dated 4 December 2020, Ms X referred to her police statement in which she stated:

*'In the early hours of [XXX], I phoned the police, following an incident which I describe from page 8 onwards of [XXX]. This was the first time that I had ever called 999. After I made the call, Dr Talibi said 'I'll show you what [XXX] is.' I was sitting [XXX] and Dr Talibi suddenly came [XXX] with a knife. He said '[Ms X], you're making me bleed' or words to that effect to make it sound to the call operator as though I was the one*

*hurting him. When he did this, I immediately cut the call as I didn't know what to do. I started crying.'*

227. The Tribunal had regard to Ms X's Psychiatric Assessment Report, which states as follows:

*'On the [XXX], before [XXX] there was an episode of [XXX] where he became aggressive and punched the walls and threatened her in an intimidating fashion.'*

228. The Tribunal noted Ms X's written evidence in her statement to the GMC that because of Dr Talibi's shouting and aggressive behaviour she became afraid and called the police. She said that Dr Talibi had obviously heard her say 'XXX' on the phone during what she described as the triage. She said Dr Talibi responded and shouted '*I'll show you what XXX is*'.

229. The Tribunal noted that Ms X repeated this account and was consistent in her oral evidence when cross examined.

230. The Tribunal had regard to Dr Talibi's GMC witness statement dated 4 January 2024, in which he stated:

*'At the request of [Ms X] [XXX] (...) and [Ms X] and I continued to argue. I was exhausted, upset and fed up so I went to sleep [XXX]. [Ms X] instead came in, put the light on and [XXX] and when I went to turn the light off, she pushed me against a wall. I told her to get out and closed the door behind me. She shouted that she was going to get me struck off as a doctor and "do me" for [XXX]. She then left the room and I thought she had called the police.'*

231. In his oral evidence Dr Talibi said that he thought he heard Ms X calling the police. He said that he did not touch her. What she did was to make a threat: "before it was the crocodile tears, now I'm going to call the police." He said that he wanted to go back to sleep. She said that he needed to apologise but he said that he had nothing to apologise for.

232. The Tribunal concluded that Ms X's account was consistent throughout her evidence and credible. The Tribunal compared this to Dr Talibi's account that he had gone quietly XXX and Ms X came in and XXX and pushed him against the wall and said she was going to get him struck off as a doctor and "do him" for XXX.

233. It is agreed that Ms X did not tell the police anything about a knife when they attended on the night of the incident and, after Dr Talibi had left the property, she called him XXX after he had left. Nor did she tell XXX whom she had also called and who attended her home.

234. The Tribunal was satisfied that this was a credible allegation, made to the police in Ms X's statement. The Tribunal was satisfied that it was consistent with her actions in calling the police and XXX on XXX and consistent with her evidence that she was afraid for her own safety – not because Dr Talibi was threatening her directly but – because Dr Talibi appeared to have lost control of himself.

235. The Tribunal was of the view that Dr Talibi's account was inherently unlikely and amounted to Ms X telephoning the police and XXX for no reason at all. For those reasons, the Tribunal preferred Ms X's account of what occurred.

236. The Tribunal found Ms X's evidence was all the more persuasive because it contained a level of detail which would be hard to make up. Ms X gave an account that made it clear that there was no direct threat to her, only of self-harm to Dr Talibi. When the police attended, she did not pursue her complaint. The Tribunal found that this was inconsistent with Dr Talibi's assertion that Ms X was just trying to *'get him done for [XXX]'*.

237. In all the circumstances, the Tribunal preferred the evidence of Ms X.

238. Accordingly, the Tribunal found paragraphs 22(a), 22(b)(i) and (ii) of the Allegation determined and found proved.

#### Paragraph 22(b)(iii)

239. The Tribunal found that Dr Talibi did have a knife during the incident and held it to his own stomach as Ms X described in her note to her colleague. Nevertheless, the Tribunal noted that Ms X did not say in her police statement that Dr Talibi had directly threatened her with a knife.

240. The Tribunal acknowledged that seeing the knife in the context of a heated argument in which Dr Talibi said *'I'll show you what [XXX] is'* was a frightening experience for Ms X. However, the Tribunal concluded that Dr Talibi never went so far as to threaten her with a knife.

241. Accordingly, the Tribunal found paragraph 22(b)(iii) of the Allegation not proved.

#### Paragraphs 23 and 24

242. The Tribunal acknowledged that before Ms X gave her statement to the police on XXX, she had not revealed the rape to anybody whose evidence the Tribunal has heard.

243. The Tribunal began its consideration by examining what Ms X told the police in her statement in XXX:

*'Later on that night, Samed wanted to have sexual intercourse with me and I refused as I was very upset and not in the night state of mind to have sexual intercourse, given the upset I had endured just hours before [XXX]. He then threatened me with [XXX] on my refusal to be intimate with him. I repeatedly refused to engage in any sexual intercourse with him that night and he became very angry and argumentative. He suddenly became more and more aggressive when I refused to be intimate with him. I refused all advances he made to engage in any sexual activity with him. I kept crying and crying as I was so upset. He eventually left me alone and stopped persisting with his desire to engage in sexual intercourse with me.*

*However, on the morning of [XXX], Samed demanded that I had sexual intercourse with him. He threatened me that he would [XXX] if I refused again. He stated that this was my last chance. He said "[Ms X], I WILL LEAVE YOU. IT IS [XXX] TO HAVE SEX WITH YOU; YOU DENIED IT LAST NIGHT TO ME. YOU CAN'T DENY IT AGAIN OR I WILL LEAVE YOU, IT'S YOUR LAST CHANCE. I WILL WALK OUT IF YOU DON'T GIVE IT TO ME NOW."*

244. The Tribunal also had regard to Ms X's GMC witness statement dated 4 December 2020, in which she stated:

*'..., I explain that Dr Talibi raped me following [XXX]. There were actually two separate incidents of rape on the morning of [XXX], initially in the early hours and then subsequently at breakfast time, at approximately 7-8am. In my police statement it is*

*not clear that there were two separate incidents on this morning. No face to face interview took place with the police when this statement was created and instead conversations took place on the phone. As is apparent throughout the statement, it was not a very detailed statement. Also, my memory of the second incident is not as clear as the first. However, I am sure that there were two separate instances of rape on the morning of [XXX]...'*

245. Ms X made a supplemental statement to the GMC on 30 April 2024, in which she stated:

*'There was forced sex. It was that I was not able to willingly sleep with Dr Talibi. It was forced rape. I was upset. The sheets were changed and then Dr Talibi said "you are [XXX] now you can't refuse me sex" and it was forced sex.'*

246. When she gave evidence to the Tribunal, Ms X maintained that there was "forced sex" both during the early hours of the morning and later in the morning. She tried to explain that difference between her statement to the GMC and what she told the police by saying that the statement was taken over the phone and was not very detailed. However, the Tribunal could not accept that answer as being accurate because the statement was written in considerable detail and Ms X had signed every page.

247. In her evidence Ms X also offered another explanation: *When I gave my police statement, I was still coming to terms with what happened and I wasn't able to remember fully what had happened to me. Maybe I was blocking things out, maybe I didn't want to remember, maybe I was just ashamed. What I could remember at that time I told them. When I re-read my statement, and this has been years on that I've come to terms with it, I've been able to clarify what happened.*

248. The Tribunal compared these accounts carefully and concluded that the most likely explanation was that Ms X had thought about and dwelt upon the events of XXX over several years and arrived at conclusions that she believed.

249. However, the Tribunal was satisfied that it could not rely upon an account of an alleged rape where Ms X said in her statement in XXX that sexual intercourse did not take place at all at that time.

250. For that reason, the Tribunal concluded that the GMC had not discharged its burden of proving that sexual intercourse took place in the early hours of XXX.

251. Accordingly, the Tribunal found paragraphs 23 and 24 of the Allegation not proved.

Paragraph 26(a)(i)

252. The Tribunal set out the evidence in this case, in detail, starting once again, with the account that Ms X gave to the police in XXX.

253. The Tribunal had regard to Ms X's police witness statement dated XXX, in which she stated:

*'However, on the morning of [XXX], Samed demanded that I had sexual intercourse with him. He threatened me that he would leave me [XXX] if I refused again. He stated that this was my last chance. He said "'[Ms X], I WILL LEAVE YOU. IT IS [XXX] TO HAVE SEX WITH YOU; YOU DENIED IT LAST NIGHT TO ME. YOU CAN'T DENY IT AGAIN OR I WILL LEAVE YOU, IT'S YOUR LAST CHANCE. I WILL WALK OUT IF YOU DON'T GIVE IT TO ME NOW."Samed coerced me to having sexual intercourse with him on the morning of the [XXX], He told me "[XXX]"*

*I did not consent to having penetrative sexual intercourse with Samed on the morning of the [XXX]. Under his continuous intimidating threats of [XXX] and threats of leaving me and being subjected to his controlling and manipulative behaviour, Samed coerced me and forced me to have sexual intercourse with him against my will after his persistent attempts to touch me. Samed then forcefully wrapped his legs around mine and lay on top of and restrained me down on the bed. He put my hands above my head and held them down with force using his hands. It lasted around 10minutes. I could not move and was trapped being restrained under his force. I felt sick afterwards. I felt numb and lay still until he finished. I felt like an object subjected to pleasing him under his continuous threats of [XXX] and under his intimidation and control. After, he removed himself from me; I got up quickly to have a shower and did not say anything. I then [XXX]. I was so emotionally distraught inside and had suffered so much abuse in the last 72 hours; I nearly had a panic attack. I had suppressed all my emotions and feelings to please Samed and so that I would be able to emotionally cope with what had happened to me. I ignored what he had done to me that night as I*



*couldn't bring myself to accept it. I used denial as a coping mechanism to help me get through the day.'*

254. The Tribunal also had regard to Dr Talibi's police interview transcript on XXX, during which he stated:

*'DR ST: Yeah, fine, so, so she said I don't – "Don't assume we're going to, we're going, we're going make have make sex, make love, have intercourse tonight". I said, "Fine, whatever". I went to bed, and then in the morning we woke up and we, kind of, things were a little better. She said, "Okay, fine, you know, let's get intimate" as you would do [XXX]. She said, "What lingerie do you want me to wear?" and I'd been to – I've got the receipt, went to House of Fraser and I had bought, spent £156 on lingerie. She had spent another £150 in Ann Summers.*

*She said, "What do you want me to wear?" I said, "Whatever you feel comfortable with. I prefer you to wear this, but wear whatever you want" and she said, you know, "Let's make up. I'm here for you to enjoy yourself. Let's have sex", so we did. Obviously, I hadn't – for me [XXX] because it had been stressful and I'd not had any intimacy in the last few days with her, so we made love, as you would do. She said, "I hope you enjoyed yourself", not in a sarcastic manner. You know, "I hope you enjoyed yourself".*

255. The Tribunal had regard to the accounts of both Ms X and Dr Talibi which are summarised above and were given closer to the time of the index events.

256. The Tribunal concluded that Ms X's account set out above was more consistent with the upset of the previous evening when she had refused sex. The Tribunal found that her account contained telling details of what Dr Talibi had said and what she experienced during the episode on the morning of XXX.

257. It was the Tribunal's view that Ms X's description of what occurred did not amount to consent but merely submission.

258. Accordingly, the Tribunal found paragraph 26(a)(i) of the Allegation determined and found proved.

Paragraph 26(a)(ii)

259. The Tribunal then considered whether the GMC had established that, on that occasion, Dr Talibi did not have a reasonable belief that Ms X consented to sexual intercourse.

260. The Tribunal read the statement Ms X made to the GMC on 4 December 2020 in which she said:

*“As well as verbally making it clear that I declined sexual intercourse, as explained above, I also initially resisted physically by having my legs closed. However, he forced my legs open and grabbed my wrists. I was lying on my back and Dr Talibi lay on top of me. After forcing my legs open he wrapped his legs around mine. I did not provide consent.”*

261. The Tribunal observed that Ms X, in her police witness statement, stated:

*‘I had suppressed all my emotions and feelings to please Samed and so that I would be able to emotionally cope with what had happened to me. I ignored what he had done to me that night as I couldn't bring myself to accept it. I used denial as a coping mechanism to help me get through the day.’*

262. The Tribunal again decided that Ms X’s recollection of events in XXX was more likely to be accurate. The Tribunal compared Ms X’s description of what she said and did on this occasion compared to the detail she told the police about the events giving rise to paragraphs 27 and 28 of the Allegation.

263. The Tribunal concluded that that on this occasion the likelihood was that Ms X did not say or do anything to express her reluctance.

264. The Tribunal was aware that there are many situations where mere submission would not lead to a reasonable belief in consent. However, in the context of the situation at that time, that it was XXX and they had been in a sexual relationship XXX, the Tribunal concluded that the GMC have not discharged its burden that Dr Talibi did not have a reasonable belief that Ms X consented to sexual intercourse.

265. Accordingly, the Tribunal found paragraph 26(a)(ii) of the Allegation not proved.

Paragraph 26(b)

266. The Tribunal found that the admitted sexual intercourse was “sexually motivated.” There is no other explanation.

Paragraph 28

267. The Tribunal had regard to Ms X’s police statement dated XXX in which she stated:

*‘During the [XXX], I refused to have sexual intercourse with Samed on several occasions, as I felt I had endured so much abuse and was always upset and crying during [XXX]. I was still hurting inside with everything I had endured so far. During [XXX] Samed said “YOU'RE WITHHOLDING [XXX] TO HAVE SEX WITH YOU.” I was lying in bed on my side and he demanded to have sexual intercourse with me, but [XXX]. I repeatedly told him “NO. [XXX]” but he wanted to have sexual intercourse and started taking off his underwear and proceeded to rub his Penis in to my anus. [XXX] and tried to push him away with my right hand. He restrained my hand and wrapped his lags around mine and continued to penetrate my anus. I said to him “I DONT WANT TO DO THIS. DON'T. PLEASE STOP, YOU'RE HURTING ME.”*

*It was getting too unbearable and painful for me. I was so frightened he would hurt me more and I panicked and turned my body so he would stop it. He then quickly took advantage of my position and climbed on top of me and had sexual intercourse with me despite my pleas for him to stop. Samed continued to have penetrative sexual intercourse with me. My body just froze as yet again I couldn't believe this was happening to me again. I felt disgusted by his evil behaviour and vicious act. I was in so much pain afterwards I couldn't move.’*

268. The Tribunal also had regard to Ms X’s GMC witness statement dated 4 December 2020, in which she stated:

*‘Whilst we were [XXX], we had numerous arguments about what had happened in the past [XXX].*

*...*

*‘We only had sexual intercourse on one occasion during [XXX], which took place without consent and was the third occasion upon which he raped me. On this occasion*

*it was again penis to vaginal penetration but took place from behind. I did not provide consent. My statement to police '[XXX]' suggests that anal penetration took place. This is not correct. I recall that Dr Talibi was trying to insert his penis into my anus from behind but penetration did not actually occur. After attempting anal penetration unsuccessfully, penis to vaginal penetration took place from behind, which was without consent.'*

269. In her supplemental statement to the GMC dated 30 April 2024, Ms X stated:

*'The next paragraph [XXX] There was a second incident of forced intercourse [XXX]'*

270. The Tribunal noted that Ms X was cross examined about all these matters and maintained her account.

271. The Tribunal also had regard to Dr Talibi's police interview transcript dated XXX, in which he stated:

*'[XXX]. She consented...*

*I think this was on the Sunday the [XXX]. We woke up in the morning. I had some – something similar, which she consented. We both went to bed and there was no anal or no vaginal sex.*

*...we had an argument and she said to me very clearly, she said to me, "Well, technically in the morning, you really didn't ask for my consent, so I could accuse you of rape". Then I kind of, I kind of, you know, was taken aback. I thought what the hell is – what the hell what, what, what kind of comment is that? I called – I'm sure I spoke [XXX] then and I said to them, because I'd spoken to them a few days before because of her walking off, and [XXX] said to me, "Don't have any intercourse with her. Don't have any intercourse. Don't get her pregnant as she could accuse you of rape".*

272. Dr Talibi repeated this account to the police and said that that Ms X had made the remark "flippantly".

273. Dr Talibi then described that on the following morning they were in bed together, he describes them as having normal sexual intercourse, and she said to him clearly:

*‘ “Please rape me. Please be rough with me”, and I stopped for a moment remembering what she’d said two days before, what my parents had said, but I didn’t want to deprive her of the intimate encounter and I was – [XXX]. I want to be intimate of course. This is a normal human male instinct, and likewise, she was willing to be intimate and hold her hands down and we were both intimate consensually together.’*

274. Dr Talibi then described the conversation he had with Ms X the next day, as follows:

*“Listen, [Ms X], you know, [XXX]. We can’t be like this. You can’t argue at me and I can’t be like – I don’t want to record your phone calls”. I said, “I’m protecting myself because of what you’ve done”.*

*“Okay fine, I won’t call the police anymore and accuse you of [XXX] I won’t push you anymore. This stuff what happened, it’s me and you. Yes, [XXX], so we should leave it”, but in that she made a statement saying, “[XXX], I’m going to make it hell for you”, and [XXX] and the morning – I had the day off work.’*

275. The Tribunal had regard to Dr Talibi’s GMC witness statement dated 4 January 2024, in which he stated:

*‘We went [XXX] on [XXX]. [XXX] we did not have vaginal intercourse, but we were sexually intimate with one another. Again, this was consensual.*

*We continued our journey to [XXX]. We stayed [XXX], and [XXX], we had vaginal intercourse on two occasions, both of which were consensual.*

*[XXX]*

*[Ms X] was [XXX] so on two occasions we had consensual intercrural sex (where I would rub my penis between her legs). She was happy to do that.*

*I recall that following one of the instances of intercrural sex that at some point the following day she said to me that ‘technically in the morning you didn’t really ask for my consent so I could accuse you of rape’. I was mortified by this, and I didn’t know what to think. I had never been accused of anything like that. I called [XXX] and spoke to them about it, and they told me not to have any further sexual relations with her and, if possible, to return home early.*

*On the morning [XXX], I woke up early and went for a walk around to take some photographs. When I returned [Ms X] was wearing lingerie and she invited me to bed. We began to get intimate, and I recall [Ms X] saying to me ‘please rape me, please be rough with me’. It went through my mind what she had said before and the advice I had taken from [XXX]. However, I was caught up in the moment and [Ms X] was being very provocative and wanted to be intimate. We had proceeded to have consensual vaginal intercourse and went back to sleep.’*

276. The Tribunal noted that Dr Talibi did not deviate from his account in oral evidence. He insisted that it was only then that he had started recording Ms X because she had said that she would make false allegations about him.

277. The Tribunal concluded that Ms X’s allegation of rape was credible and sufficiently consistent with what she had told the police in XXX, for the Tribunal to treat it as a credible allegation.

278. The Tribunal was also satisfied that the GMC had discharged the burden of proving that Ms X’s account was more likely to be correct than Dr Talibi’s.

279. The Tribunal found it implausible that Ms X would suddenly even “flippantly” threaten Dr Talibi that she could complain of rape after an incident which by his own account, did not amount to sexual intercourse.

280. Nor did the Tribunal find it plausible that Ms X would (for the first time) invite Dr Talibi to ‘rape’ and be rough with her in circumstances where it is admitted by Dr Talibi that Ms X was reluctant to have sexual intercourse because XXX. In light of all the other evidence it had accepted, the Tribunal also rejected Dr Talibi’s account to the police that he took part in sexual intercourse only to please Ms X.

281. The Tribunal concluded that Dr Talibi’s account of the threats Ms X made that she could report him for rape, his suggestion that she asked him to ‘rape her’ and him contacting the police, were an attempt to cover up that on this occasion he had had sexual intercourse with Ms X without her consent and he knew what he had done.

282. Accordingly, the Tribunal found paragraph 28(a)(i) of the Allegation determined and found proved.

Paragraph 28(a)(ii)

283. The Tribunal reminded itself that on this occasion Ms X gave a clear account to the police that she had expressly said no to Dr Talibi when he had started to have sexual intercourse with her, and she has been consistent about that throughout her evidence.

284. The Tribunal accepted this evidence for the same reasons as set out above. Accordingly, the Tribunal found paragraph 28(a)(ii) determined and found proved.

Paragraph 26(b)

285. Having regard to all the evidence set out above, the Tribunal was satisfied that the act of sexual intercourse which it found proved must have been sexually motivated at least in the sense that it was done in the pursuit of sexual gratification.

Paragraphs 29 to 32

286. Paragraphs 29 to 32 of the Allegation relate to a number of images found on electronic devices belonging to Dr Talibi. Those images are listed, with descriptions, in Schedules 1, 3 and 4 of the Allegation.

287. When referring to individual images, the Tribunal has referred to them by their page number in a bundle known throughout the proceedings as bundle C1. (Where an image appears more than once, the Tribunal has not sought to record every entry). The Tribunal has done this so that the parties can see which image the Tribunal is referring to. However, the Tribunal recognises that anyone else reading the Tribunal's determination will be unable to understand which image is being referred to. For that reason, the Tribunal has compiled the following table linking the page numbers to the descriptions in schedule 1:

C1	Description in Schedule 1(Where the date of an image has become known after the preparation of the schedule, it is noted as "recorded as undated"
272	Male standing in a conservatory of a house holding a rifle with scope.
289	20/12/2015 Male believed to be Dr Talibi holding a handgun whilst taking a 'selfie' in a bathroom.

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293	18/04/2016 Male believed to be Dr Talibi holding a semi-automatic weapon an exhibition centre in an unknown location.
295	14/11/2016 Screenshot of google search for waterboarding.
296	XXX (recorded as undated) Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X is touching one of the knives.
297	<p>XXX (recorded as undated) Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X appears to be sharpening the two knives by rubbing them together.</p> <p>XXX (recorded as undated) Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X is holding two of the knives and pushing them into the wooden surface.</p>
298	XXX (recorded as undated) Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X appears to be about to take hold of the axe.
313	01/05/2017 Dr Talibi standing in a kitchen, with 9 kitchen knives, a dagger, an axe, penknife and a pen laid out on the work surface.
314	01/05/2017 (described as undated) thirteen knives an axe and a pen laid out on a work surface.
315	01/05/2017 (recorded as undated) Male believed to Dr Talibi holding a serrated folding knife to the throat of a female.
320 (266)	01/07/2007 Male believed to be Dr Talibi with an unknown female, holding a firearm.
321(267)	01/07/2007 Male believed to be Dr Talibi holding a firearm and aiming it at the lens of the camera.
321	<p>01/07/2007 Male believed to be Dr Talibi holding a firearm and pointing it towards his head.</p> <p>17/07/2007 Male standing in a conservatory of a house holding a rifle with scope</p>
323 (bottom)	31.03.2018 Semi-automatic firearms, pistols and magazines laid out on a patio floor in a garden of a house, believed to be a UK premises.
324 (top)	06/08/2009 Semi-automatic weapons, magazines, bullet proof vest, foreign currency and playing cards showing the face of Saddam Hussain, laid out on a piece of cloth on a tiled floor.
325	16/07/2011 Male believed to be Dr Talibi in the doorway within premises holding an automatic rifle.
326	10/08/2011 Weapons laid out on bed including large firearm, revolver, magazine, metal bar and a folding knife.



	10/08/2011 Weapons laid out on a bed which include metal bars, a baseball bat, hammer, meat cleaver, two folding knives, a small sword, an automatic rifle with a clear magazine clip with bullets and a revolver. A balaclava mask and gloves are also displayed.	
327	26/06/2012 (typing error for 29/06.2012) Male believed to be Dr Talibi holding a large weapon.	
328	24/10/2015 Male believed to be Dr Talibi dressed in green balaclava, green neck scarf and black clothing with fists clenched.	
334	18/04/2016 Male believed to be Dr Talibi holding a semi-automatic weapon (at) an exhibition centre at an unknown location.	
335	19/01/2017 Three knives, a meat cleaver, small sword, three metal bars which is endorsed with the words 'who wants to play.'	
336	3 images of man believed to be Dr Talibi lying in bed with an axe.	
358	Immigration documents relating to someone associated with the 9/11 terrorist attacks.	
361	Photographs of military bases and tanks	
363	Documents relating to the production of aluminium flake powder	

#### Paragraph 29

288. The Tribunal adopted the following approach to this paragraph, following the advice of the LQC:

- First, in order to find paragraph 29 proved, the Tribunal did not need to find that Dr Talibi participated in the creation of every photograph in schedule 1. It is enough that he participated in the creation of those photographs where he appears or are taken in his house.
- Secondly, The Tribunal noted that the wording of paragraph 29 was that Dr Talibi participated in creation of the photographs, including the ones set out in paragraphs (a) to (h). The Tribunal concluded that the images listed at (a) to (h) were merely examples, so that the Tribunal could find the stem of paragraph 29 proved without finding paragraphs (a) to (h) proved.
- The Tribunal accepted that 'participated in the creation of the photographs' included taking the photos or posing for them.

- The Tribunal also reminded itself that the expression ‘appears to be’ is an ordinary English expression meaning ‘looks like’.
- The expression ‘prohibited weapon’ means a firearm, the possession of which is prohibited by the Firearms Act 1968, without a firearms licence.

#### Paragraph 29 Stem

289. The Tribunal found there was no dispute between parties that Dr Talibi took or posed for the photographs in Schedule 1, in which he appears, or which were taken inside his house.

290. Accordingly, the Tribunal found paragraph 29 (stem) of the Allegation determined and found proved.

#### Paragraph 29(a)

291. The Tribunal had regard to the photographs in the GMC bundle at pages 272, 289 (also 389) (top), 320, 321, 325 (bottom), 326, 327, 329, and 334 (gun photographs).

292. The Tribunal had regard to the evidence of Mr C, Infantry Weapons Collection Manager in the Small Arms Schools Corp, in which he stated:

*‘I have been asked by the GMC to provide further information, as to whether the weapons that I previously identified in the photographs appear to be genuine firearms (which are prohibited without a firearms licence) or replicas. Based on my experience from serving in HM forces and my current position, I would consider that the weapons shown in the photographs are real weapons. I cannot identify if the weapons in the photographs are Blank firing/Pellet/BB or Air soft weapons, given that these types of weapons and replica are made to look like the real thing.’*

293. The Tribunal noted that Mr C had a long experience with guns. He conceded that they appear to be real or replicas, and that you cannot tell the difference from the photographs.

294. The Tribunal bore in mind that Mr C was not available to give evidence in person to this Tribunal or be cross examined. The Tribunal was satisfied that there was no risk of

injustice as it has proceeded on the basis, that it cannot be established that the guns in the photographs are real, only that they look like real guns.

295. The Tribunal also noted that there was no challenge to the evidence, that if real, the weapons were ‘prohibited without a firearms licence’.

296. The Tribunal heard evidence from Dr Talibi and others that the firearms pictured in the photos listed were not real guns but were either toys, replicas, air guns or BB guns. The Tribunal accepted that evidence and found that in some cases the photographs actively supported this (pages 320, 321, and 322) although the Tribunal observed that the photograph in the toy shop at page 322 was not included in schedule 1 in any event). Nevertheless, for the reasons set out above, the Tribunal was satisfied that the items in the pictures appeared to be real firearms ‘prohibited’ by the Firearms Act.

297. Accordingly, the Tribunal found paragraph 29(a) of the Allegation determined and found proved.

#### Paragraph 29(c)

298. The Tribunal had regard to the photograph in the GMC bundle at page 313.

299. The Tribunal was satisfied that Ms X and Dr Talibi identified that knife as the one which is shown in the photograph at page 315, being held to Ms X’s throat.

300. The Tribunal noted that Dr Talibi admitted in his evidence that he had retained possession of a photograph of him holding a knife to the throat of Ms X. Dr Talibi did not admit that it was a serrated edged knife or that it was a lock knife.

301. The Tribunal noted the admission Dr Talibi made at paragraph 30(a) of the Allegation, that he had retained the photograph dated 1 May 2017 in schedule 1 *‘Dr Talibi standing in a kitchen, with 9 kitchen knives, a dagger, an axe, penknife and a pen laid out on the work surface’* page 313.

302. The Tribunal looked at the photograph, which Dr Talibi admitted is the one referred to at page 313 where he can be seen looking at a number of kitchen knives and holding one in his left hand.

303. The Tribunal noted that although Ms X described Dr Talibi as having a folding knife, which he “flicked and clicked”, she did not identify that as the knife that he was holding in the photograph. Although Ms X identified that knife as one of the knives on the table in the photograph on page 314 (top left corner), she did not identify the folding knife as the knife that Dr Talibi was holding in the photograph at page 313.

304. Accordingly, the Tribunal found paragraph 29(c) of the Allegation not proved.

Paragraph 29(d)

305. The Tribunal noted that Dr Talibi had admitted to retaining possession of a photograph described as *‘Male believed to Dr Talibi holding a serrated folding knife to the throat of a female’* in schedule 1. In his evidence Dr Talibi accepted taking a photograph of him holding a knife to Ms X’s throat but he denied that the knife being held was either serrated, folding or a lock knife.

306. The Tribunal noted that when Ms X was asked in evidence whether the knife being held to her throat was the folding lock knife which she had described she said *‘to the best of my recollect it wasn’t’* and *‘that the knife being held to her throat had a straight blade and a black handle’*.

307. The Tribunal looked carefully at the photograph at page 315 which Dr Talibi admitted taking. The Tribunal could not see it clearly enough to say that it was more likely than not that Dr Talibi was holding a serrated knife to Ms X’s throat.

308. Accordingly, the Tribunal found paragraph 29(d) of the Allegation not proved.

309. Before leaving this sub-paragraph, the Tribunal records that it observed Dr Talibi admitted taking a photograph of himself holding a knife to Ms X’s throat. It was the evidence of both Dr Talibi and Ms X that this photograph was staged, and the Tribunal accepted this.

310. Dr Talibi admitted that this was an unprofessional thing to have done. He also told the Tribunal that he only took these photographs in the kitchen because Ms X insisted upon it. However, Ms X has given evidence that the photographs were taken at Dr Talibi’s instigation. The Tribunal preferred Ms X’s account, in particular, because it observed that Dr Talibi had been taking photographs of himself and others posing with knives or guns for many years. By contrast, there was no evidence that Ms X had ever done so.

Paragraph 29(e)

311. It appeared to the Tribunal that the photograph it was being asked to consider was at page 328; *'Male believed to be Dr Talibi dressed in green balaclava, green neck scarf and black clothing with fists clenched'* in schedule 1 taken on 24 October 2015.

312. The Tribunal had regard to Mr Peacock's submissions that there was no evidence that that the manner in which Dr Talibi is dressed was a paramilitary uniform. Dr Talibi has denied in his evidence that it was a paramilitary uniform.

313. The Tribunal compared it with the photograph at page 325, which is described as a selfie of Dr Talibi in a black beret taken on 6 December 2010. The Tribunal considered that this may be closer to paramilitary uniform. However, it cannot be satisfied that Dr Talibi was wearing a paramilitary uniform in the photograph at page 328, (although the Tribunal did find that the effect of the image was menacing).

314. Accordingly, the Tribunal found paragraph 29(e) of the Allegation not proved.

Paragraph 29(f)

315. The Tribunal had regard to the photograph in the GMC bundle at pages 289/329; *'Male believed to be Dr Talibi holding a handgun whilst taking a 'selfie' in a bathroom'* in schedule 1 taken on 20 December 2015.

316. The Tribunal had regard to Mr C's evidence. He said that the weapon in the photograph looked sufficiently like a prohibited weapon but could not say for certain. He thought it was possibly an Italian Beretta 92 9mm with silencer.

317. The Tribunal had regard to Dr Talibi's evidence, as follows:

*'I can confirm that the person in the photograph is me. The weapon in question is a plastic BB gun purchased from a toy store [XXX]. I had purchased the plastic BB gun in 2005 before going to university. The image is taken in my family home [XXX]. I found the gun whilst going through my room and took the photo in the mirror myself in*

*2015. It was a silly pose, I did so with pouted lips to exaggerate the silliness of taking it.'*

318. The Tribunal accepted the evidence of Mr C that the gun in the photograph looked sufficiently like a real one for him to be able to identify it. Applying the test set out above, the Tribunal concluded that it does look like a prohibited weapon.

319. Accordingly, the Tribunal found paragraph 29(f) of the Allegation determined and found proved.

#### Paragraph 29(h)

320. The Tribunal had regard to the photograph in the GMC bundle at page 335.

321. The Tribunal noted that Dr Talibi accepted that he had taken the photograph and added the caption, but he denied that he had sent it to anybody else on snapchat. Dr Talibi conceded in his evidence that this photograph was 'alarming' and that it was why he did not send it to others.

322. The Tribunal applied the prohibited weapon test as set out above, it can observe that there were none in this photograph. As far as 'offensive' is concerned, the Tribunal understood that to mean something made or adapted to be a weapon. In the photograph the Tribunal could see a sword and two knives which appeared to be weapons when looked at in the context of where they were and the accompanying message.

323. Accordingly, the Tribunal found paragraph 29(h) of the Allegation determined and found proved with respect to offensive weapons.

#### Paragraph 30(b)

324. The Tribunal considered the word 'sensitive' and had regard to Mr Jackson's submission that the documents were sensitive because they related to the 9/11 atrocity. The Tribunal believed that the word sensitive related to the material itself and not the subject to which it related. In the Tribunal's view the word sensitive conveys the idea of secrecy and at the very least material not readily available to members of the public.

325. The Tribunal noted that the GMC had conceded that this material was readily available to anyone searching the internet. The Tribunal therefore concluded that the material could not be sensitive.

326. Accordingly, the Tribunal found paragraph 30(b) of the Allegation not proved.

Paragraph 30(c)

327. The Tribunal had regard to the police investigation log of when Dr Talibi was asked about the thermalite aluminium document which had been recovered from one of his devices, as follows:

*‘THAT HAS BEEN RECOVERED FROM ONE OF HIS DEVICES. THIS DEVICE IS A PROCESS USED TO MIX ALUMINIUM SHAVINGS TO PRODUCE THERMITE. AN EXPLOSION OF MOLTEN METAL SIMILAR TO THE EXPLOSION OF A BOMB. TALIBI STATED THAT THE DOCUMENT WAS SIMILAR TO A DISSERTATION OR A THESIS TYPE DOCUMENT ON THE SUBJECT. HE ALSO STATED THAT HE HAD BEEN AN A LEVEL PHYSICS STUDENT AND HE MAY HAVE HAD THE DOCUMENT FOR THAT PURPOSE. THERE ARE VERY SPECIFIC ITEMS AND CONDITIONS REQUIRED TO COMPLETE THE PROCESS TO MAKE THIS EXPLOSION AND THE DOCUMENT HAS BEEN ANALYSED BY A FORENSIC LABORATORY AT THE REQUEST OF THE CTU. IT IS NOT BELIEVED THAT TALIBI WOULD BE ABLE TO CONSTRUCT A BOMB OR AN EXPLOSION.’*

328. The Tribunal did not find any other material to contradict the police view. It was therefore not satisfied that the documents to which it had been referred are relevant to making an ignition device.

329. Accordingly, the Tribunal found paragraph 30(c) of the Allegation not proved.

Paragraph 31(a)

330. The Tribunal noted that Dr Talibi had admitted that he had viewed the videos listed in Schedules 3 and 4 at an early stage in his second statement. He also stated:

*‘It is also through Liveleaks that I came across the content, schedule 4., related to the Taliban who had been waging a counter insurgency in Afghanistan that had also*

[XXX], *It was then I had come across the video and the fighting videos. The video is however not of a beheading but death by firing squad.*

331. The Tribunal accepted that there was no evidence that Dr Talibi had downloaded or retained the footage. It also accepted Dr Talibi's evidence that the footage contained people being shot rather than beheaded.

332. Accordingly, the Tribunal found paragraph 31(a) of the Allegation determined and found proved on the basis that he had viewed the material.

#### Paragraph 32

333. The Tribunal was conscious that this was a somewhat unusual question to be asked at this stage of the hearing (stage 1). It observed that issues of misconduct and whether something is liable to bring the profession into disrepute are normally dealt with at the second stage. The Tribunal reminded itself that it is being asked whether the material 'risks' bringing the profession into disrepute.

334. The Tribunal looked at the photographs and had careful regard to Mr Peacock's submission that people are entitled to a private life and just because the Tribunal may not find what they did attractive, it does not mean that it risks bringing the profession into disrepute. The Tribunal found that there is considerable force to that submission and bore in mind that none of the material on Dr Talibi's computer was intended to be distributed to others.

335. The Tribunal also concluded that what a doctor did as an undergraduate, before becoming a doctor, should be given a much greater degree of latitude than what he does as doctor.

336. The Tribunal also reminded itself that material stored on a computer for private consumption can become more widely available, particularly if some of the material is sent to others by WhatsApp or other means. The Tribunal was satisfied that such a risk inevitably exists when material is stored on a private device.

337. The Tribunal also reminded itself that Dr Talibi has been the subject of an extensive investigation and there was no suggestion that he was in any sense a sympathiser with terrorism. The Tribunal concluded, that in those circumstances Dr Talibi was entitled to be



interested in firearms and weapons and the Tribunal should not automatically characterise such an interest as “unhealthy” much less one that risks bringing the profession into disrepute.

338. The issue for the Tribunal was whether any of the photographs either appeared to glorify, encourage or make light of violence, in circumstances where there was a risk they would become more widely known to others, even if that was not Dr Talibi’s intention.

339. The Tribunal focused on the more recent photograph at page 355 (*‘who wants to play’*) and concluded that this photograph appeared to glorify and encourage violence.

340. The Tribunal was also concerned about the photograph at page 315 where Dr Talibi was seen holding a knife to the throat of Ms X, albeit in a staged photograph.

341. The Tribunal noted Dr Talibi’s GMC statement dated 15 April 2024, in which he stated:

*‘I accept that doing so was irresponsible and could be perceived as being unprofessional, falling short of the standards requisite of a doctor even if it was taken privately away from the public eye and completely ill advised. However as with all of the images, it was not one taken for public consumption. It was only taken in the context of our relationship and [Ms X] and I messing around and indeed at her request. I would never have asked her to pose for this photo myself. The tribunal will note that even in this photograph I have placed the blade end away from [Ms X] and as an added precautionary measure I have placed my thumb over the flat end.’*

342. The Tribunal looked at the series of photographs at pages 296, 297, 298 and concluded that they on their own would not risk bringing the profession into disrepute, although their potential impact was altered by the photograph at page 315.

343. The Tribunal was satisfied that the photographs on their own at pages 270 and 271, which were taken when Dr Talibi was an undergraduate, would not themselves fall into that category. However, when looked at in the context of the photograph at page 335, which had striking similarities, they did add to the risk by showing that the images of violence were being re-visited by Dr Talibi even when he was a doctor.

344. The Tribunal did not find that merely watching a video as described (however distasteful) or downloading a readily available description of waterboarding from the internet fell into the category of material that gave rise to the risk of bringing the profession into disrepute. Nor did photographs of air bases, once it was accepted that Dr Talibi was not associated with terrorism and the material is available on the internet.

345. In all the circumstances, the Tribunal concluded that there was a risk of bringing the profession into disrepute, to the limited extent set out above that some of the photographs retained by Dr Talibi appear to glorify, encourage or make light of violence and there was a risk that the material could fall into other hands.

346. Accordingly, the Tribunal found paragraph 32 of the Allegation determined and found proved.

#### **The Tribunal's Overall Determination on the Facts**

347. The Tribunal has determined the facts as follows:

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

##### Theft from Asda / banning order

1. On 26 May 2017, you and [Mr D] attended an Asda supermarket in [XXX] ('Asda [XXX]') and:
  - a. when scanning the goods at the self-service till you and [Mr D], acting together:
    - i. intentionally ensured that you did not scan the barcode on the item of milk powder;  
**Amended under Rule 17(6)**  
**Determined and found proved**
    - ii. covered the barcode on the item of milk powder with your hand to prevent it from being scanned;  
**Amended under Rule 17(6)**  
**Determined and found proved**

- b. you and [Mr D] left Asda [XXX] without paying for the milk powder, valued in the sum of £23.50; **Admitted and found proved**
  - c. when challenged about your actions, as set out at paragraphs 1a and 1b above:
    - i. you and [Mr D] initially declined to provide confirmation of your identity to the investigating security staff member; **Admitted and found proved**
    - ii. you and/or [Mr D] implicitly offered money to the investigating security staff member to discontinue his investigation into your actions; **Determined and found proved**
  - d. you and [Mr D] received a banning order from all Asda supermarkets for your actions as set out at paragraphs 1a and 1b above. **Admitted and found proved**
2. You knew that you had failed to pay for the milk powder when you left Asda [XXX]. **Determined and found proved**
3. Your actions as set out at paragraphs 1a, 1b and 1c ii above were dishonest by reason of paragraph 2. **Determined and found proved**

Photograph uploaded to dating website

4. Between 7 September 2014 and 6 September 2015, you created a profile on an online dating website ('dating profile') in which you described yourself as a '28 year old brain surgeon.' **Admitted and found proved**
5. You uploaded a photograph to your dating profile which was inappropriate in that the:
- a. photograph depicted you in a clinical setting participating in a live brain surgery procedure ('the procedure'); **Admitted and found proved**
  - b. photograph showed the exposed brain of a patient ('the Patient'); **Admitted and found proved**
  - c. Patient had not consented to you: **Admitted and found proved**

i. retaining a copy of the photograph for your personal use;

**Admitted and found proved**

ii. uploading the photograph of them to the dating profile.

**Admitted and found proved**

#### EDF Fraud

6. On 14 June 2017, you spoke to a representative of EDF Energy via telephone ('the telephone call') in relation to an outstanding energy bill covering your property ('the property') for the period from 12 November 2016 to 12 April 2017 in the sum of £770.01. **Admitted and found proved**

7. During the telephone call referred to in paragraph 6 above, you stated that:

a. you had a tenant named '[XXX]' ('the tenant') in the property for six months from 2 December 2016 to 2 June 2017; **Admitted and found proved**

b. the tenant:

i. owed you one month's rent; **Admitted and found proved**

ii. had caused significant damage to the property; **Admitted and found proved**

iii. had left a £700.00 energy bill; **Admitted and found proved**

iv. now resided at '[XXX]'; **Admitted and found proved**

c. your surname was 'Tal',

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

8. You knew that the information you provided during the telephone call as set out in paragraph 7 above was untrue. **Admitted and found proved**

9. Your actions as set out at paragraphs 6 and 7 above were dishonest by reason of paragraph 8. **Admitted and found proved**

Creating an audio recording of criminal court proceedings

10. On 24 January 2017, when attending Birmingham Magistrates' Court to be sentenced following convictions for driving offences, you intentionally created an audio recording of the sentencing hearing on your mobile phone device, despite not having leave of the Court to do so. **Admitted and found proved**

Racist / Discriminatory statements

11. Between 1 January 2016 and 27 August 2017:

- a. when discussing [XXX] in England and in the presence of others, you made racist and / or discriminatory comments when stating:
  - i. I do not like Afghan culture, I hate Afghan culture; **Determined and found proved**
  - ii. I hate kuffar and white people; **Determined and found proved**
  - iii. I hate this country, I hate Afghan people equally,  
or words to that effect; **Determined and found proved**
- b. you made racist and / or discriminatory statements when communicating with [Ms X] in that on one or more occasion you:
  - i. stated that you held a strong opposition to white culture, or words to that effect; **Found not proved**
  - ii. stated that you hated everyone who is not a Muslim, or words to that effect; **Found not proved**
  - iii. used the derogatory term kuffar to refer to those who are non-Muslim. **Found not proved**

Allegations relating to [Ms X]

12. XXX

13. XXX

14. Between [XXX]:

- a. whilst present with [Ms X] in the stairwell of a [XXX] library, in response to [Ms X] accidentally touching your glasses, you behaved in a threatening manner towards [Ms X] in that you:

- i. punched the wall; **Determined and found proved**

- ii. shouted aggressively; **Determined and found proved**

- b. you accused [Ms X] of scratching your watch and then assaulted [Ms X] by grabbing her wrist forcefully; **Found not proved**

- c. you accused [Ms X] of stretching your vest and then assaulted [Ms X] by pushing her. **Found not proved**

15. In [XXX], whilst driving and accompanied by [Ms X] as passenger in your vehicle, following an argument with [Ms X], you behaved in a threatening manner towards her in that you:

- a. began punching the steering wheel of your car whilst driving; **Determined and found proved**

- b. drove your car on to the pavement. **Determined and found proved**

16. In [XXX], you behaved in an abusive manner towards [Ms X] when, without her consent, on one or more occasion you:

- a. opened [Ms X]'s eyelid whilst she was sleeping; **Found not proved**

- b. recorded videos of the behaviour referred to at paragraph 16a. **Found not proved**

17. Between [XXX], you behaved in an abusive and / or threatening manner towards [Ms X] on one or more occasion when holding:

- a. scissors to your wrist whilst indicating you would harm yourself; **Determined and found proved**
- b. a knife to your throat whilst indicating you were going to harm yourself. **Determined and found proved**

18. In [XXX], you assaulted [Ms X] by forcing her: **Amended under Rule 17(6)**

- a. hands around the handle of a kitchen knife; **Determined and found proved**
- b. to hold the knife referred to in paragraph 18a to your neck. **Determined and found proved**

19. Between [XXX], on one or more occasion, you threatened [Ms X] by stating that you would subject her to waterboarding, or words to that effect.

**Amended under Rule 17(6)**  
**Determined and found proved**

20. Between [XXX], on one or more occasion, you threatened [Ms X] by stating that:

- a. you would present [Ms X]’s dead body to her parents; **Determined and found proved**
- b. if [Ms X] ever became pregnant you would use a wire from a coat hanger and make sure the baby is not viable,

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

21. In [XXX], you complained that the food cooked by [Ms X] was too hot and then:

- a. assaulted [Ms X] by forcefully holding her hands behind her back; **Determined and found proved**
- b. behaved in a threatening manner by punching the wall. **Determined and found proved**

22. On [XXX], you behaved in:

- a. an abusive manner towards [Ms X] when shouting at her; **Determined and found proved**
  - b. a threatening manner towards [Ms X] when:
    - i. stating, in response to [Ms X] calling police, ‘I’ll show you what [XXX] is,’ or words to that effect; **Determined and found proved**
    - ii. obtaining a knife and holding it so that it was visible to [Ms X];  
**Determined and found proved**
    - iii. threatening [Ms X] with a knife. **Found not proved**
23. Between the evening of [XXX] and early hours of the morning on [XXX], at [XXX] in [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **Found not proved**
24. Your actions as set out at paragraph 23 above were:
- a. carried out without:
    - i. [Ms X]’s consent; **Found not proved**
    - ii. you having a reasonable belief that [Ms X] was consenting; **Found not proved**
  - b. sexually motivated. **Found not proved**
25. At or around 07:00 to 08:00 on [XXX], at the [XXX] in [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **Admitted and found proved**
26. Your actions as set out at paragraph 25 above were:
- a. carried out without:
    - i. [Ms X]’s consent; **Determined and found proved**
    - ii. you having a reasonable belief that [Ms X] was consenting; **Found not proved**



b. sexually motivated. **Determined and found proved**

27. Between [XXX] and [XXX], whilst [XXX] with [Ms X] [XXX], you intentionally penetrated the vagina of [Ms X] with your penis. **Admitted and found proved**

28. Your actions as set out at paragraph 27 above were:

a. carried out without:

i. [Ms X]'s consent; **Determined and found proved**

ii. you having a reasonable belief that [Ms X] was consenting;  
**Determined and found proved**

b. sexually motivated. **Determined and found proved**

Possession of images, videos and documentation on your electronic devices

29. Between 1 July 2007 and 24 October 2017, on one or more occasion, you participated in the creation of a series of photographs listed in Schedule 1 below, including those in which you:

a. posed for photographs, listed in Schedule 1, whilst in possession of what appears to be prohibited weapons, as defined by the Firearms Act 1968 (as amended), and some of the photographs were taken by third parties;  
**Determined and found proved**

b. posed for photographs, listed in Schedule 1, whilst in possession of a large quantity of knives and with an axe and some of the photographs were taken by third parties; **Admitted and found proved**

c. posed for a photograph, listed in Schedule 1, whilst holding a serrated folding lock knife (an offensive weapon) and the photograph appears to have been taken by a third party; **Found not proved**

d. posed for a photograph, listed in Schedule 1, whilst holding a serrated folding lock knife (an offensive weapon) to the throat of [Ms X] and the photograph appears to have been taken by a third party; **Found not proved**

- e. posed for a photograph, listed in Schedule 1, dressed in paramilitary clothing, and the photograph appears to have been taken by a third party; **Found not proved**
- f. posed for a photograph [a 'selfie'], listed in Schedule 1, whilst holding what appears to be a prohibited weapon, as defined by the Firearms Act 1968 (as amended); **Determined and found proved**
- g. ~~posed for a photograph holding what appears to be a Russian Rocket launcher, listed in Schedule 1, and the photograph appears to have been taken by a third party;~~ **Withdrawn and found not proved**
- h. ~~sent~~ Created a Snapchat message showing what appears to be prohibited and offensive weapons which included the message 'who wants to play...'.  
**Amended under Rule 17(6)**  
**Determined and found proved**

30. You retained possession of:

- a. the images set out at paragraph 29 above and listed in Schedule 1; **Admitted and found proved**
- b. a quantity of sensitive material linked to suspected terrorists involved in the '9/11' attacks, listed in Schedule 1; **Found not proved**
- c. material relevant to making an ignition device, which you downloaded, listed in Schedule 2. **Found not proved**

31. On a date prior to 19 January 2018, on one or more occasion, you downloaded and / or viewed and / or retained: **Amended under Rule 17(6)**

- a. video footage of beheadings and or killings, as set out in Schedules 3 and 4;  
**Amended under Rule 17(6)**  
**Determined and found proved**
- b. an image of a waterboarding device. **Admitted and found proved**

32. Your actions and the course of conduct as set out at paragraphs 29 - 31 above risked bringing the profession into disrepute. **Determined and found proved**

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

#### Determination on Impairment – 16/04/2025

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 Talibi'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 further evidence as follows:

- Dr Talibi's reflections dated 10 December 2024;
- Dr Talibi's reviews (ARCPs) dated June 2015 to November 2024;
- Dr Talibi's portfolios;
- Dr Talibi's multi-source feedback dated February 2015 to October 2024;
- Dr Talibi's colleague feedback dated July 2012 to November 2024;
- Dr Talibi's patient feedback dated April 2015 to October 2024;
- Dr Talibi's Continuous Professional Development (CPD) dated June 2016 to June 2024;
- Dr Talibi's publications dated May 2019 to December 2022;
- Gold Guide 10<sup>th</sup> Edition – A reference guide for Postgraduate Foundation and Speciality Training in the UK.

3. The Tribunal also received in support of Dr Talibi a number of testimonials, all of which it has read. The Tribunal acknowledges that these are the testimonials of Dr Talibi's family, friends, and colleagues. The writers are from diverse backgrounds and include the training programme director responsible for Dr Talibi's training. All attest to Dr Talibi being not only a competent doctor, but also a courteous and respectful man. The writers are clear

that they have never seen Dr Talibi be disrespectful to women, aggressive to anyone, or to express racist views.

## Submissions

### Submissions on behalf of the GMC

4. Mr Jackson reminded the Tribunal of the two-stage approach to be taken at this stage of the proceedings, firstly considering the issue of misconduct and secondly that of impairment. He reminded the Tribunal of the relevant case law.

5. Mr Jackson dealt first with misconduct. He referred the Tribunal to in the case of *Roylance v General Medical Council (No.2) [2000] 1 AC 311*, a case under the old rules and serious professional misconduct and noted that:

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

6. Mr Jackson drew the Tribunal’s attention to *The Queen (on the Application of Remedy UK) v. GMC [2010] EWHC 1245 (Admin)* and submitted that Misconduct is of two principal kinds. First, it may involve sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise. Second, it can involve conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur outside of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.

7. With regard to the second category of misconduct he submitted that conduct falls into the second limb if it is dishonourable or disgraceful or attracts some kind of opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute. It matters not whether such conduct is directly related to the exercise of professional skills.

8. Mr Jackson also drew the Tribunal’s attention to the following provisions of Good Medical Practice 2013 (GMP):

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

...

*65 You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.’*

9. Turning to impairment, Mr Jackson submitted that the term “fitness to practise” means not only capacity or ability to practise, in the sense of having the requisite knowledge, experience and technical skill, (which was not an issue in this case); but it also refers to the doctor’s suitability to practise, by reference to the character and conduct of the doctor, as demonstrated by the Tribunal’s findings of fact. Thus, a doctor’s fitness to practise may be found to be [currently] impaired, even though that doctor is considered by the Tribunal to be highly skilled, if he or she has behaved in such a way that, in the Tribunal’s judgment, his or her past conduct is such as to call into question his or her suitability to provide medical services either with restrictions, or indeed at all.

10. Mr Jackson acknowledged that a finding of impairment could only be based upon a finding of misconduct that is serious. He submitted that the Tribunal should decide separately upon each of the paragraphs it has found proved except paragraphs 29 to 31 which should be considered together. He acknowledged that the question of impairment should be decided by reference to all matters found to amount to serious misconduct, taken together.

11. Mr Jackson submitted that by reason of the Tribunal’s stage one findings of fact, Dr Talibi’s fitness to practise is currently impaired because of:

- The seriousness of Dr Talibi’s misconduct, involving a number of different areas of misconduct;
- The period of time over which the misconduct endured;
- Dr Talibi’s lack of insight into the gravity of his actions or why he had acted as he did;
- Lack of evidence of active steps towards remediation;
- The risk of repetition;
- The need to make a finding of impairment to promote and maintain public confidence in the profession and uphold standards of conduct for the profession.

12. Dealing with insight, Mr Jackson submitted that on many occasions, Dr Talibi showed no insight into why he had acted as he had and tried to blame others, often Ms X.

13. Mr Jackson submitted that in his reflective statement, Dr Talibi provided no real explanation for his dishonest conduct in relation to the EDF fraud, and that whilst accepting responsibility for his dishonest course of conduct, he was still blaming Ms X for suggesting the scam to him:

*‘...I was at the time frustrated that I was being held responsible for all the household bills and instead of listening to the inner voice of reason, I proceeded with this course of actions. This was in itself a transgression given that as medical professionals we should always challenge others who suggest uttering morally reprehensible suggestions. I understand that my conduct here fell far short of those high standards and that just because I felt the pressure emotionally, I should not pass on the burden to anyone else...’*

14. Mr Jackson submitted that Dr Talibi was still casting himself as the victim in his reflective statement.

15. Turning to the images saved by Dr Talibi and dealt with in paragraphs 29 to 31 of the Allegation, Mr Jackson highlighted that on a number of occasions Dr Talibi had said he behaved foolishly or naively but demonstrated no other understanding of why he had behaved as he did. On the contrary, he sought to blame Ms X.

16. Mr Jackson reminded the Tribunal that Dr Talibi had said the following in relation to the photographs of him and Ms X posing with knives and an axe in the kitchen XXX:

*“[Ms X] suggested that we take some photographs with the knives. And foolishly and stupidly, not realising how I would look, I agreed to do so. She laid them all out on the kitchen worksurface and [Ms X] posed for several photos with them which she asked me to take and then I did likewise.”*

17. Mr Jackson reminded the Tribunal that regarding the image of the weapons with the caption “who wants to play” dealt with at Paragraph 29(h) of the Allegation, Dr Talibi had said:

*'105. I accept that I took this photograph using the 'snapchat' application back in 2017, but I deny that I sent this to anyone. I had assembled the items for the photograph and took a photo of them using the app on my phone. Once a photograph is taken using the app you are then prompted to add a caption to the photograph. I added the caption "who wants to play."*

*106. At the time I realised that sending this image or any other similar to someone else would be foolish, unprofessional, diminishing any public confidence in the profession and likely to cause that person alarm. I therefore saved a copy of the photo to my phone and did not send the message. I understood the gravity of such an image and developed insight as well as the repercussions.'*

18. Mr Jackson submitted that what Dr Talibi did not address was why he curated this image, which was made up of potentially dangerous offensive weapons, the origins of which he was unable to explain, and/or why he kept the image, having decided not to send it, as he claimed. Likewise, during cross examination Dr Talibi would not or could not explain why he acquired these weapons and why he took the photograph.

19. Mr Jackson submitted that in relation to paragraph 31(b) of the Allegation Dr Talibi again blamed Ms X:

*'136. I admit that I conducted a google search for waterboarding and took a screenshot of that image.*

*137. I did so as I had been asked by [Ms X] what waterboarding was. I believe that it was [Ms X] who asked me owing to the timestamp of the image as it is late at night. I foolishly and naively googled the image and took a screenshot of the result. I did not do so in order to make a threat or out of any intention to carry out said act. I had Googled it as I didn't know how best to explain it to [Ms X] and I thought that it would be easier explained by google.'*

20. Mr Jackson submitted that Dr Talibi was still casting himself as the victim in his reflective statement and he had not addressed his issue with anger management as he had promised Ms X he would do. Mr Jackson submitted that in the absence of any steps taken by Dr Talibi to address his use of violence, as now found proved, there was a real risk of repetition in the future, when Dr Talibi finds himself under personal and/or professional stress that he is unable to manage.

21. Mr Jackson submitted that Dr Talibi's testimonials do little to address the issues of insight or remediation and may have more relevance at Stage 3. He submitted that these testimonials take no account of the Tribunal's findings and referred the Tribunal to the Sanctions Guidance (SG) at paragraphs 34 to 41. Furthermore, he submitted that the medical competence material can have no relevance to the Tribunal's considerations at this stage of the hearing, as Dr Talibi's competence as a doctor is not an issue in this case. Mr Jackson referred the Tribunal to the case of *General Medical Council v Mok* [2022] EWHC 1651 (Admin) paragraphs 14 to 20 and 68.

22. Mr Jackson drew the Tribunal's attention to some of the principal authorities that deal with the issue of impairment: *Regina (On the Application of Zygmunt) v General Medical Council* [2008] EWHC 2643 (Admin) and *Cheatle v GMC* [2009] EWHC 645 (Admin, *Cheatle v GMC* [2009] EWHC 645 (Admin) and *Council Health Care Regulatory Excellence v NMC and Grant* [2011] EWHC 927 QBD (Admin), in which Mrs Justice Cox reminded tribunals of the importance of the wider public interest when deciding whether a doctor's fitness to practise is impaired.

*'70. However, it is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations emphasised at the outset of this section of his judgment at paragraph 62, namely the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession. [Counsel's highlighting]*

*71. This need to have regard to the wider public interest in determining questions of impairment of fitness to practise was also referred to by Goldring J in R (on the Application of Harry) v. General Medical Council [2006] EWHC 3050 (Admin) and by Mitting J in Nicholas-Pillai, where he held that the Panel were entitled to take into account the fact that the practitioner had contested critical allegations of dishonest note-keeping, observing that:*

*"[19] In the ordinary case such as this, the attitude of the practitioner to the events which give rise to the specific allegations against him is, in principle, something which can be taken into account either in his favour or against him by the panel, both at the stage when it considers whether his fitness to practise is impaired, and at the stage of determining what sanction should be imposed upon him."*



23. Mr Jackson reminded the Tribunal that the importance of reflecting all aspects of the over-arching objective of the GMC had been restated in the case of *Chaudhary v General Medical Council* [2017] EWHC 2561 (Admin).

*"8. Throughout its deliberations, the tribunal has been mindful of the overarching objective of the GMC as set out in the Medical Act 1983 (as amended). That over-arching objective involves acting:*

*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 that profession."*

#### Submissions on behalf of Dr Talibi

24. On behalf of Dr Talibi, Mr Peacock set out the relevant law in his written submissions.

25. Mr Peacock stated that it was made known when the current fitness to practise rules came into force that a doctor's fitness to practise would be looked at holistically. He submitted that both the doctor and the public were entitled to have Dr Talibi's life and practice considered holistically.

26. Mr Peacock referred the Tribunal to Dr Talibi's stage 2 bundle. He acknowledged that Dr Talibi's reflections were confined to matters which were admitted. However, he submitted that they do show his ability to reflect appropriately and to develop those reflections consistent with his commitment to the principles of GMP. Mr Peacock stated that it was not a requirement that reflections show that a doctor has reached the end of the road.

27. In regard to testimonials, Mr Peacock submitted that the following could be derived:

- Dr Talibi is kind and caring;
- Dr Talibi is capable of forming perfectly normal stable friendships and loving relationships;
- Dr Talibi's behaviour around women is appropriate;
- Dr Talibi is not habitually racist;
- Dr Talibi is honest;

- Dr Talibi is a good, competent and capable doctor.

28. With regard to Dr Talibi's current performance, Mr Peacock stated that notwithstanding the stress that these proceedings have had on Dr Talibi, he had maintained progress in his training. Mr Peacock referred the Tribunal to Dr Talibi's progress reviews, portfolio, multi-source feedback, colleague feedback and patient feedback.

#### Theft from Asda / banning order

29. Mr Peacock stated that in regard to misconduct and impairment he makes no submissions.

#### Photograph uploaded to dating website

30. In regard to misconduct, Mr Peacock submitted that at the time of these index events there was no GMC guidance covering this behaviour. He submitted that the patient, as a matter of fact, could not be identified directly from the photograph and there was no suggestion that the patient was ever identified. Mr Peacock submitted that the lapse of judgement was isolated and limited. He submitted that these allegations therefore did not amount to misconduct.

31. Mr Peacock stated that if the Tribunal disagreed with this, he submitted that in regard to impairment the following additional matters were relevant:

- Dr Talibi admitted these allegations;
- Dr Talibi has given a frank assessment of his actions and reflected further on them;
- These index events occurred many years ago;
- There is no suggestion that this was anything other than an isolated lapse;
- There was no evidence that the photograph was online for long and the evidence was that the doctor, on his own initiative took it down.

32. Mr Peacock submitted that there was no sufficient basis for regarding Dr Talibi's current fitness to practise as impaired by reason of paragraphs 4 and 5 of the Allegation.

#### EDF Fraud

33. In regard to misconduct, Mr Peacock stated that he made no submissions. In regard to Dr Talibi's current impairment, he reminded the Tribunal that these matters had been admitted and are the subject of reflective evidence in Dr Talibi's witness statement and reflective statement. Mr Peacock stated that the testimonials provided on behalf of Dr Talibi speak to his general honesty.

#### Creating an audio recording of criminal court proceedings

34. In regard to misconduct, Mr Peacock submitted that there was no allegation that the recording was deliberate/made knowing that it should not be made. Mr Peacock reminded the Tribunal of Dr Talibi's explanation and that the police took no action. Mr Peacock submitted that Paragraph 10 of the Allegation was not sufficient to make a determination of misconduct.

35. Mr Peacock stated that if the Tribunal disagreed with this, he submitted that the matter had been admitted and referred the Tribunal to Dr Talibi's witness statement, reflective statement and the testimony of Mr I. He submitted that whatever the Tribunal's thoughts on misconduct, this could not possibly form the basis for a finding of current impairment.

#### Racist / Discriminatory statements

36. In regard to misconduct and impairment, Mr Peacock referred the Tribunal to its stage 1 determination (paragraph 111). He stated that the Tribunal had properly confined itself to the legal test and observed entirely properly that motive and state of mind was not a matter which the law permitted it to take into account at the fact-finding stage.

37. Mr Peacock stated that these paragraphs of the Allegation are a few snippets of intemperate outbursts arising out of the frustrations of organising a XXX event. He stated that anyone who may have been in that position may also have shared some of those frustrations. However, when looked at in the context of misconduct, can that possibly be behaviour which falls seriously short of the standards required?

38. Mr Peacock submitted that in regard to impairment, this sort of allegation requires a Tribunal to compartmentalise. He referred the Tribunal to Dr Talibi's witness statement, reflective statement and the testimonials provided on behalf of Dr Talibi. In addition, he

stated that the Tribunal had also heard direct witness evidence from Dr H.

39. Mr Peacock submitted that paragraph 11(a) could not form the basis of a finding of current impairment.

#### Allegations relating to Ms X

##### Paragraphs 12 and 13

40. Mr Peacock submitted that in all the circumstances these paragraphs of the Allegation did not amount to misconduct. He submitted that there was no evidence that there was a deliberate attempt at contact with Ms X. Furthermore, Dr Talibi was not questioned on those parts of his witness statement.

41. Mr Peacock submitted that no interaction had taken place between the two parties and the police took no action.

42. Mr Peacock stated that if the Tribunal disagreed with this, he submitted that in regard to impairment, Dr Talibi had admitted these paragraphs of the Allegation and had given an explanation.

##### Paragraphs 14 to 22

43. Mr Peacock stated that he had no submissions to make in regard to misconduct and current impairment.

##### Paragraphs 23 to 28

44. Mr Peacock reminded the Tribunal that it had found paragraphs 23 and 24 not proved. Furthermore, the Tribunal had found paragraph 26(a)(ii) not proved because the Tribunal was not satisfied that Dr Talibi had not held a reasonable belief that Ms X consented to sexual intercourse. He submitted that reasonable belief in consent would be a defence in a criminal court and accordingly, in the circumstances of this case, paragraphs 25 and 26 did not amount to serious misconduct.

Possession of images, videos and documentation on your electronic devices

45. Mr Peacock submitted that the matters proved under these paragraphs of the Allegation were not so serious as to amount to misconduct. He referred the Tribunal to his stage 1 submissions to the extent that they applied at this stage. These related to Dr Talibi's password protected devices and the private images, which were not made public until this case and not intended to be made public.

46. Mr Peacock reminded the Tribunal of its decision at stage 1 that it had allowed greater leeway to Dr Talibi's actions as an undergraduate than as a registered doctor. Mr Peacock stated that the requirement for registration with the GMC for undergraduates did not at that time apply.

47. Mr Peacock stated that in relation to the Tribunal's assessment of paragraph 32 of the Allegation, because it had found that Dr Talibi's actions risked bringing the profession into disrepute, the exercise now was to quantify what the risk was. Mr Peacock submitted that the risk the Tribunal had identified, on its limited findings in relation to these images could not be sufficient to amount to misconduct. Mr Peacock stated that if the Tribunal disagreed with this, he submitted that these matters dated back many years and that there was no suggestion of repetition. Mr Peacock referred the Tribunal to Dr Talibi's supplemental witness statement. He submitted that there was insufficient material to make a determination of current impairment in respect of these matters.

Conclusion

48. Mr Peacock submitted that Dr Talibi had to the extent that it was open to him to do so demonstrated insight and it could not be said that he is a doctor with no insight.

49. In regard to the question of repetition, which arises from the GMC's submission in relation to behaviour under stress, Mr Peacock stated that the last few years had been a period of extreme stress for Dr Talibi. Notwithstanding the stress he has been under, Dr Talibi has been able to form a stable, loving relationship XXX. Mr Peacock referred the Tribunal to the testimonial of [Ms Q]. He submitted that there could be no better retort to the suggestion that the behaviour which the Tribunal has found proved might be repeated.

50. The Tribunal accepted the advice of the Legally Qualified Chair (LQC), which it has followed in the Legal Principles set out below.

## The Relevant Legal Principles

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

52. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: firstly, it must consider whether the facts as found proved amounted to misconduct which was serious; and secondly, whether such misconduct leads to a finding of impairment.

53. With regard to misconduct that is serious, the Tribunal reminded itself that it must have regard to the seriousness of any misconduct and the extent of Dr Talibi's culpability.

54. In deciding whether Dr Talibi's fitness to practise is impaired, the Tribunal has exercised its own judgement and borne in mind the statutory overarching objective of the GMC set out in Section 1(1B) of the Medical Act 1983 to:

- 'a. Protect, promote and maintain the health, safety and well-being of the public,*
- b. Promote and maintain public confidence in the medical profession, and*
- c. Promote and maintain proper professional standards and conduct for members of that profession.'*

55. The Tribunal must determine whether Dr Talibi's fitness to practise is impaired today, taking into account Dr Talibi's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition. It must also have regard to the overarching objective set out above and ask whether a finding of impairment is necessary under all three limbs.

56. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as endorsed by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. The Tribunal should therefore consider whether the practitioner:

- '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 in the future to act dishonestly in the future.'*

## The Tribunal's Determination on Impairment

### Misconduct

Theft from Asda / banning order

### Paragraphs 1 to 3 of the Allegation

57. The Tribunal determined that Dr Talibi's conduct breached paragraphs 1 and 65 of Good Medical Practice (2013) ('GMP'):

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

*65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

58. The Tribunal noted that these matters took place outside of Dr Talibi's professional practice.

59. The Tribunal has already found that Dr Talibi's actions in stealing from Asda were dishonest.

60. The Tribunal considered that colleagues and members of the public would find this behaviour deplorable.

61. Accordingly, it concluded that the matters proved amounted to serious misconduct.

Photograph uploaded to dating website

#### **Paragraphs 4 and 5 of the Allegation**

62. In considering whether Dr Talibi's conduct amounts to serious misconduct, the Tribunal reminded itself of Mr Peacock's submission that there was no GMC guidance in relation to doctors making posts on social media. However, it noted that maintaining confidentiality and treating patients with respect have always been an essential part of Good Medical Practice.

63. The Tribunal concluded that the public's respect for and trust in doctors would be undermined by discovering that a doctor was posting a photograph of a patient in such a vulnerable state.

64. The Tribunal determined that Dr Talibi's conduct breached paragraph 47 of GMP:

*'You must treat patients as individuals and respect their dignity and privacy.'*

65. The Tribunal acknowledged that Dr Talibi had done his best to anonymise the photograph of the patient, and they accepted that this made his conduct less serious than if the patient had been identifiable. Nevertheless, the Tribunal concluded that Dr Talibi was prepared to take the risk that a patient would be identified. It found that his conduct demonstrated a lack of respect for and a breach of the patient's dignity. The Tribunal concluded that members of the public would find this conduct deplorable. The Tribunal also bore in mind that this conduct was directly linked to the doctor's clinical practice.

66. The Tribunal concluded that Dr Talibi's conduct amounted to serious misconduct.

EDF Fraud

#### **Paragraphs 6 to 9 of the Allegation**



67. The Tribunal found Dr Talibi's conduct amounted to serious misconduct as it was a more serious example of dishonesty than the matters found proved in paragraph 1 of the Allegation. This is due to the significant amount of money that Dr Talibi defrauded and that there was a clear element of planning and a sustained deception.

68. The Tribunal found that the planning and sustained dishonesty were demonstrated by Dr Talibi telling a significant number of lies including the existence of a tenant to which he attributed a name, a fabricated address to which the tenant had moved and a dishonest name for himself.

69. The Tribunal determined that Dr Talibi's conduct breached paragraphs 1 and 65 of GMP. It concluded that a member of the public would find the doctors planned and sustained dishonesty to be deplorable.

70. Accordingly, the Tribunal concluded that Dr Talibi's conduct amounted to serious misconduct.

#### Creating an audio recording of criminal court proceedings

#### **Paragraph 10 of the Allegation**

71. The Tribunal has already found that the GMC could not establish that Dr Talibi knew he should not make the audio recordings. For this reason, the Tribunal was not satisfied that Dr Talibi's conduct in this regard amounted to serious misconduct.

#### Racist / Discriminatory statements

#### **Paragraph 11a**

72. The Tribunal determined that Dr Talibi's conduct breached paragraph 65 of GMP.

73. The Tribunal considered the racist and discriminatory statements individually and taken together. It heard evidence that Dr Talibi did not hold any racist or discriminatory views himself and draws his friends from a wide group of people who were confident that he did not have any racist views or racial prejudices nor had they heard him express such thoughts.

74. However, the Tribunal found that Dr Talibi used racist and discriminatory language at a gathering of family and others. The Tribunal found that the use of this kind of language amongst a group of people, not all of whom will hear all that he has said or understand the context, would be regarded as deplorable by most people and would undermine public confidence in doctors. The public must be confident that a doctor will treat all people fairly. For these reasons, the Tribunal found that Dr Talibi's conduct amounted to serious misconduct.

#### Allegations relating to Ms X

75. The Tribunal recognised that these are all matters which fall outside of Dr Talibi's clinical practice and considered whether these were matters which colleagues or members of the public would find deplorable.

76. XXX

#### **Paragraph 14a of the Allegation**

77. The Tribunal set out to determine whether Dr Talibi's conduct in behaving in a threatening manner by punching a wall and shouting aggressively at Ms X amounted to serious misconduct. It acknowledged that shouting aggressively and punching a wall in the context of a disagreement does not always amount to professional misconduct. However, the Tribunal has already found at the facts stage, based on the evidence it had heard, that Dr Talibi behaved in a threatening manner towards Ms X and this threatening behaviour caused Ms X fear and distress. For this reason, the Tribunal concluded that Dr Talibi's conduct in this regard amounted to serious misconduct.

#### **Paragraph 15 of the Allegation**

78. The Tribunal set out to determine whether Dr Talibi's conduct in behaving in a threatening manner towards Ms X by punching the steering wheel and driving his car on the pavement amounted to serious misconduct. The Tribunal reminded itself that it had found that Dr Talibi had behaved in a threatening manner towards Ms X. It took the view that Dr Talibi punching the steering wheel alone may not amount to serious misconduct. However, the Tribunal concluded that this conduct taken together with driving on the pavement and its earlier finding that Dr Talibi's behaviour was threatening, amounted to serious misconduct.

### Paragraph 17 of the Allegation

79. The Tribunal found Dr Talibi's behaviour to be abusive and threatening, as on more than one occasion he threatened self-harm using scissors and a knife in close proximity to Ms X. The Tribunal acknowledged that this was less serious than using the scissors to threaten Ms X directly. However, the Tribunal found that being in close proximity to Dr Talibi threatening to harm himself with scissors and knives was an abusive and threatening experience for Ms X. The Tribunal reminded itself of the evidence of Ms X in relation to the impact of this incident on her, *'I was very shocked at his behaviour and his bizarre out of control reaction and told him to calm down as I did not want him to hurt himself.'* Accordingly, the Tribunal concluded that Dr Talibi's conduct amounted to serious misconduct.

### Paragraph 18 of the Allegation

80. The Tribunal considered Dr Talibi's conduct in assaulting Ms X by forcing her to hold the knife and hold it to his neck to amount to serious misconduct for the same reasons as above. It took the view that the misconduct had escalated as Dr Talibi had assaulted Ms X by forcing her into contact with the knife and himself.

### Paragraphs 19 and 20 of the Allegation

81. The Tribunal considered Dr Talibi's conduct in threatening Ms X with waterboarding to be a very serious threat, calculated to strike fear into her. It also considered Dr Talibi's threats towards Ms X in relation to him presenting her dead body to her parents and his threat to use a wire coat hanger and make sure the baby was not viable if she ever got pregnant. The Tribunal determined that whilst none of this conduct amounted to an assault, it amounted to threats of serious violence in the future. The Tribunal was satisfied that colleagues and members of the public would find Dr Talibi's conduct to be deplorable. It therefore concluded that Dr Talibi's conduct amounted to serious misconduct for the same reasons as above.

### Paragraph 21 of the Allegation

82. The Tribunal considered Dr Talibi's conduct in assaulting Ms X by forcefully holding her hands behind her back and punching the wall to amount to serious misconduct. It determined that Dr Talibi's conduct undermines the public's trust in the profession. The Tribunal concluded that colleagues and members of the profession would find Dr Talibi's

conduct to be deplorable. The Tribunal found that this was a very frightening episode for Ms X in particular because Dr Talibi's response was completely out of proportion.

### **Paragraph 22 of the Allegation**

83. The Tribunal reminded itself of its findings that this conduct was both abusive and threatening. The Tribunal was satisfied that the threat (*"I'll show you what [XXX] is"*) was a threat of violence. The Tribunal acknowledged that Dr Talibi did not directly threaten Ms X with the knife that he was holding, but he was nonetheless holding a knife in a confined space when verbally threatening Ms X. Accordingly, the Tribunal concluded that Dr Talibi's conduct amounted to serious misconduct.

### **Paragraphs 25(a), 26(a)(i) and 26(b) of the Allegation**

84. The Tribunal has already found that the GMC could not establish that Dr Talibi did not have a reasonable belief that Ms X was consenting. In those circumstances the Tribunal concluded that there was no basis upon which the Tribunal could find that the matters proved at paragraphs 25 and 26 of the Allegation amount to serious misconduct.

### **Paragraphs 27 and 28 of the Allegation**

85. The Tribunal determined that Dr Talibi's conduct in intentionally penetrating Ms X without her consent, and without a reasonable belief that she was consenting, was a matter of utmost seriousness. It took the view that this conduct clearly undermines the public's trust in the profession, and members of the public and the profession would find this conduct deplorable. The Tribunal therefore concluded that Dr Talibi's conduct amounted to serious misconduct.

### **Possession of images, videos and documentation on electronic devices**

### **Paragraphs 29 to 32 of the Allegation**

86. Counsel agreed that the Tribunal should consider all the matters contained in paragraphs 29 to 31 when deciding whether Dr Talibi's conduct amounted to serious misconduct. The Tribunal reminded itself that it had found that it was only those images

referred to and described between paragraphs 338 to 345 of its facts determination that risked bringing the profession into disrepute. Accordingly, the Tribunal focused on those images alone when deciding whether the matters found proved amounted to serious misconduct. These included the photograph of Dr Talibi holding a knife to Ms X's throat and the image of weapons on a bed with the caption 'who wants to play'.

87. The Tribunal acknowledge that these photos were kept in private and not published online by Dr Talibi. However, the Tribunal has already found that there is a risk that such images will become public. The Tribunal has carefully confined its attention to those images which glorify violence or threaten violence. It took the view that creating an image of a man holding a knife to a woman's throat even 'in jest' and using the caption 'who wants to play' on a photograph of a number of weapons, which is an invitation to violence, are outside of what is acceptable for a doctor to create and would undermine public confidence.

88. The Tribunal bore in mind that Dr Talibi's explanation for making and possessing these images was that he was silly and immature or that he made the photographs in jest. The Tribunal concluded that the images glorified and invited violence and that Dr Talibi's explanation did not justify the making and the keeping of those photographs. The Tribunal therefore concluded that Dr Talibi's conduct amounted to serious misconduct.

### Impairment

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

90. The Tribunal considered each of the four questions posed in the *Grant* case referred to above. The Tribunal acknowledged that Dr Talibi had not put patients at unwarranted risk of harm. Nevertheless, it concluded that Dr Talibi's serious misconduct was liable to bring the medical profession into disrepute. The Tribunal concluded that Dr Talibi's misconduct breached fundamental tenets of the medical profession, namely, honesty, integrity and acting in a way that justifies public confidence in the profession. The Tribunal has already found that Dr Talibi has acted dishonestly. The Tribunal therefore found limbs (b),(c) and (d) to be engaged.

91. The Tribunal then went on to consider whether Dr Talibi was liable to repeat misconduct in the future. In order to assess this, the Tribunal considered the level of Dr Talibi's insight and any remediation he had undertaken.

92. The Tribunal found that Dr Talibi has consistently minimised the seriousness of his misconduct saying simply that it was the result of foolishness or immaturity. The Tribunal determined that Dr Talibi has little insight or understanding as to why he acted as he did and he demonstrated this by constantly blaming others. As far as the findings of sexual violence are concerned, the Tribunal recognised that it can be difficult for a doctor to show evidence of insight in circumstances where matters have only recently been found proved. However, even without regarding his denials as evidence of lack of insight, the Tribunal found that Dr Talibi had not demonstrated insight into that misconduct.

93. The Tribunal had regard to the Continuous Professional Development (CPD) and courses that Dr Talibi has undertaken and acknowledged that he has made significant efforts to maintain his clinical skills and knowledge. Nevertheless, the Tribunal concluded that the work undertaken did not address the fundamental issues of dishonesty and abusive behaviour which the Tribunal has found proved in this case.

94. When considering the risk of repetition, the Tribunal took into account that these incidents occurred in XXX and there has been no evidence of repetition since. However, in the absence of sufficient evidence of insight and remediation, the Tribunal concluded that there remained a significant risk of repetition of misconduct. Therefore, the Tribunal determined that there was a significant risk Dr Talibi would engage in misconduct that would bring the profession into disrepute, breach fundamental tenets of the profession and act dishonestly in the future.

95. The Tribunal then asked itself whether a finding of impairment was necessary to uphold the wider public interest in maintaining public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession. The Tribunal considered that the public interest is clearly engaged by the risk of repetition, the gravity and wide-ranging nature of the misconduct, and the period of time over which it occurred. The Tribunal took the view that a well-informed member of the public would be deeply disturbed if a finding of impairment was not made in respect of a doctor who had behaved as Dr Talibi had.

96. Therefore, the Tribunal considered that a finding of impairment was necessary 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 the profession.

97. The Tribunal has therefore determined that Dr Talibi's fitness to practise is impaired by reason of misconduct.

#### **Determination on Sanction - 08/08/2025**

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

#### **The Evidence**

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

3. The Tribunal also received further evidence on behalf of Dr Talibi including:

- Dr Talibi's reflections (sent on 25 July 2025);
- Dr Talibi's Continuous Professional Development (CPD) Certificates;
- Additional testimonial of Ms Q on behalf of Dr Talibi.

#### **Submissions**

4. On behalf of the GMC, Mr Jackson submitted that the appropriate sanction to impose in this case is a matter solely for the Tribunal, exercising its own independent judgment. He reminded the Tribunal that sanctions are not intended to be a punishment, but they can sometimes have that effect.

5. Mr Jackson referred the Tribunal to the revised Sanctions Guidance (SG) (updated 05 February 2024). He also reminded the Tribunal of the High Court cases of *Bolton v Law Society* [1994] 1 W.L.R. 512 and *Demanya v General Medical Council* [2025] EWHC 247

(Admin)] which established that the reputation of the profession is more important than the fate of any individual practitioner, however well qualified.

6. Mr Jackson stated that the GMC's submissions relate to three areas:

- The seriousness of the doctor's misconduct;
- The question of whether the doctor has demonstrated sufficient insight and evidence of adequate remediation;
- The issue of any continuing risk.

7. He said that the GMC rely on all the facts found proved at stage one, and also all the Tribunal's findings of 'serious misconduct' at the impairment stage. He submitted that when the Tribunal considers what is the appropriate sanction in this case, the key issues that the Tribunal is likely to have in mind will include:

- The seriousness of Dr Talibi's misconduct, underlined by the Tribunal's own findings that the doctor's conduct was 'deplorable', in respect of the following heads of charge:
  - Stealing from Asda;
  - Photographs uploaded to a dating website;
  - EDF Fraud;
  - Racist / Discriminatory Statements;
  - Allegations relating to Ms X;
- The seriousness of the departures from GMP;
- The public interest considerations, having regard to the 'over-arching objective';
- In particular the serious issue of public confidence including women coming into hospital for treatment in the knowledge that Dr Talibi has been found to have acted in the way he has in relation to Ms X.

8. Mr Jackson highlighted paragraph 97 (e) and (g) of the SG, and reminded the Tribunal of its previous finding:

*'When considering the risk of repetition, the Tribunal took into account that these incidents occurred in [XXX] and there has been no evidence of repetition since. However, in the absence of sufficient evidence of insight and remediation, the Tribunal concluded that there remained a significant risk of repetition of misconduct. Therefore, the Tribunal determined that there was a*



*significant risk Dr Talibi would engage in misconduct that would bring the profession into disrepute, breach fundamental tenets of the profession and act dishonestly in the future.'*

9. With regard to the over-arching objective, Mr Jackson highlighted the Tribunal's previous finding:

*'The Tribunal then asked itself whether a finding of impairment was necessary to uphold the wider public interest in maintaining public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession. The Tribunal considered that the public interest is clearly engaged by the risk of repetition, the gravity and wide-ranging nature of the misconduct, and the period of time over which it occurred. The Tribunal took the view that a well-informed member of the public would be deeply disturbed if a finding of impairment was not made in respect of a doctor who had behaved as Dr Talibi had.'*

*Therefore, the Tribunal considered that a finding of impairment was necessary 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 the profession.'*

10. Mr Jackson submitted that what remains of particular concern, despite the passage of time, is the persistent and XXX pattern of behaviour to Ms X and the sophisticated and carefully planned acts of dishonesty. He submitted that these are both serious examples of what the GMC submit is entrenched behaviour and part of a wider pattern of serious misconduct, in respect of which there is no reasonable prospect of remediation because of Dr Talibi's complete lack of insight. He submitted that this was apparent from his 'Reflective Statement' where the focus is on the impact of the Tribunal's findings on himself.

11. Mr Jackson submitted that although Dr Talibi speaks of insight in this statement, the Tribunal should recall his complete lack of insight into his demonstrable serious misconduct when he gave evidence earlier this year, being entirely dismissive of concerns regarding the seriousness of his aberrant behaviour.

12. Mr Jackson submitted that the only appropriate sanction should be one of erasure, which affords the required level of protection of the public interest, notwithstanding the

doctor's clinical skills and the impact on his medical career.

13. On behalf of Dr Talibi, Mr Peacock submitted that the circumstances of this case are not fundamentally incompatible with continued medical practice and that erasure would be disproportionate. He submitted that suspension was the appropriate sanction in this case.

14. Mr Peacock referred the Tribunal to the case of *GMC v Ahmed* [2022] EWHC 403 (Admin). He submitted that this case supports the proposition that not all sexually motivated conduct requires a sanction of erasure.

15. Mr Peacock also referred the Tribunal to the case of *GMC v Mok* [2022] EWHC 1651 (Admin). He submitted that this was a serious case of sexual misconduct in which the decision of suspension was not appealable. He said that it demonstrates, amongst other things, that there is a range of behaviour within the category of sexual misconduct and that questions of insight and remediation remain relevant.

16. Mr Peacock submitted that Dr Talibi is of previous good character. He reminded the Tribunal that there had been no police prosecution and civil proceedings were dismissed with costs. Mr Peacock said that Dr Talibi went through the Prevent programme and was discharged without action.

17. Mr Peacock stated that Dr Talibi has the support of professional and non-professional colleagues alike. He referred the Tribunal to the testimonials submitted both at stage one and two of these proceedings and the recent second testimonial from [Ms Q]. He stated that these testimonials were made in the knowledge of the seriousness of the allegations and which he submitted can properly serve to put the Tribunal's findings in some context.

18. Mr Peacock submitted that Dr Talibi is a competent doctor. He referred the Tribunal to the evidence provided by Dr Talibi including his CPD. He submitted that there was a clear public interest in the retention of competent doctors in order to treat patients. He said that the punitive effects of suspension or erasure are more significant where the public would be deprived of an otherwise competent doctor. In addition, Dr Talibi himself would also be deprived of the chance to provide beneficial healthcare for patients in his chosen profession. Mr Peacock reminded the Tribunal that Dr Talibi's registration has been suspended on an interim basis. This has deprived him of the prospect of pursuing his career and it has deprived patients of an otherwise clinically competent doctor. He said notwithstanding, *Bolton v Law Society* [1994] 2 All ER 486 and what cases referring to it say, the effect of sanctions on the

individual is not and cannot be irrelevant. Mr Peacock submitted that it was a question of balance and therefore any tribunal is entitled to take into account, to the extent that it deems appropriate, the effect of sanctions on the individual.

19. Mr Peacock reminded the Tribunal that these proceedings have taken place in the glare of the public eye. He said that publicity itself, and the effect on the doctor, was another aspect which the Tribunal is entitled to take into account. Whatever decision this Tribunal makes, by way of sanction, the findings will always be publicly available, and Dr Talibi must live with the consequence of that.

20. Mr Peacock submitted that Dr Talibi had demonstrated that he is capable of insight. He referred the Tribunal to Dr Talibi's reflective statement sent to the GMC and MPTS on 25 July 2025. Mr Peacock submitted that this reflective statement demonstrates a development of the insight which Dr Talibi has previously shown. He stated that a doctor is not required to accept findings of fact and nor should his continued denial be regarded as an aggravating feature. However, what any doctor can do and what Dr Talibi has done is reflect on the seriousness of the findings. Mr Peacock submitted that Dr Talibi had also reflected on the consequences for himself, and in particular the profession.

21. Mr Peacock said that Dr Talibi has demonstrated that he is capable of forming a stable, relationship XXX. He reminded the Tribunal of [Ms Q]'s second testimonial to that end. Mr Peacock submitted that this testimonial was significant and went to the risk of repetition. He reminded the Tribunal that there had been no repetition since the index allegations and findings, notwithstanding the immense amount of stress which Dr Talibi has been under during that time. He submitted that this was strong evidence that there is no longer a risk of repetition.

22. In regard to the sexual misconduct, Mr Peacock stated that the events did not occur in the context of the doctor-patient relationship, where there is a position of trust in a professional context. In response to the GMC's submission that there was a serious issue of public confidence in the context of women coming into hospital for treatment in the knowledge that the registrant has been found to have acted in the way that he has, Mr Peacock said that they might be reassured by what [Ms Q] had to say about that and invited the Tribunal to be cautious over this submission.

23. Mr Peacock criticised the use of the words 'coercive control' used by the GMC to describe Dr Talibi's misconduct towards Ms X. He said that this has never been the basis on

which the case has been put, and it would be inappropriate to raise that now as this was never alleged. He submitted that the GMC submission should be ignored.

24. Mr Peacock stated that the dishonesty in part is admitted. He submitted that it was not at the top of the scale of seriousness and referred the Tribunal to Dr Talibi's most recent reflective statement as to dishonesty in general, because this applies not just to the admitted facts but in principle to both findings of dishonesty.

25. In regard to the images, Mr Peacock submitted that Dr Talibi did acknowledge that these were inappropriate.

26. In regard to the dating website photographs, Mr Peacock reiterated his stage two submission, that there was no GMC guidance at the time and there was no suggestion that the patient was in fact identified or could in fact be identified by this image.

27. In regard to the racist comments, Mr Peacock submitted that the Tribunal's view of the seriousness of the remarks must be tempered by the good quality evidence of testimonial witnesses and character witnesses that Dr Talibi is not a habitual racist.

28. In response to the GMC's point raised regarding 'deep seated attitudinal problems', Mr Peacock stated that this expression no longer forms part of the SG. He said that there was no evidence of an assessment of Dr Talibi's mental state. He submitted that the Tribunal has evidence of insight now and developing as it may be, gainsays any suggestion of deep-seated behavioural problems.

29. Mr Peacock referred the Tribunal to paragraphs 97 and 109 of the SG (which indicate when first suspension and then erasure is likely to be appropriate). He submitted that what distinguished this case from those where erasure was the appropriate sanction was that the misconduct in this case did not take place within a doctor patient relationship, there was evidence that Dr Talibi had developing insight, and the circumstances of this particular case do not require erasure. He added that the Tribunal had the option of a review hearing in order to test the further development of insight if required.

30. Mr Peacock submitted that however close to the line it may be, the misconduct in this case is not fundamentally incompatible with continued registration because the index events did not occur during professional practice, Dr Talibi has already evidenced insight and is

capable of further insight and, despite the passage of time, there has been no repetition of the index events since XXX.

### The Tribunal's Approach

31. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its own judgement. In reaching its decision, the Tribunal has taken GMP and the SG into account and has, at all times, borne in mind the overarching objective. In deciding what sanction, if any, to impose the Tribunal should consider the sanctions available, starting with the least restrictive.

32. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not intended to punish doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Talibi's interests with the public interest. However, it acknowledged that, once the Tribunal has determined a particular sanction is necessary to protect the public, that sanction must be imposed even where this may lead to difficulties for the doctor.

33. The Tribunal had regard to the principle set out in *Bolton v Law Society* [1994] 2 All ER 486 at paragraph 14 (which is also incorporated in SG):

*"It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes...He can often show...the consequences of striking off or suspension would be little short of tragic. Often he will say convincingly that he has learned his lesson and will not offend again...But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor who they instruct will be a person of unquestionable integrity, probity and trustworthiness. The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price."*

34. The Tribunal reminded itself that the aspects of misconduct giving rise to the finding of impairment in this case almost all fell outside Dr Talibi's clinical practice, and the focus of

the Tribunal's consideration was the impact on public confidence in the profession and the need to promote and maintain standards of professional conduct.

### The Tribunal's Determination on Sanction

35. Before considering what action, if any, to take in respect of Dr Talibi's registration, the Tribunal considered the aggravating and mitigating factors in this case.

#### Aggravating Factors

36. The Tribunal found the following aggravating factors:

- The Tribunal considered that the dishonesty proved, was repeated and one instance involved significant premeditation;
- The matters relating to Dr Talibi's treatment of Ms X lasted from XXX. The matters proved included abusive behaviour, threatening to harm himself in her presence while holding a knife in a confined space, threatening to waterboard Ms X, destroy any unborn child if she became pregnant and to kill her. The conduct escalated and culminated in a rape;
- Dr Talibi's use of discriminatory language is highlighted in the SG as something likely to undermine public confidence in doctors;
- The misconduct proved covered a wide range of misconduct over more than two years;
- Dr Talibi has demonstrated very limited insight despite the passage of some eight years since his misconduct, which the Tribunal explains in more detail below.

#### Mitigating Factors

37. The Tribunal found the following mitigating factors:

- Dr Talibi's previous good character. The Tribunal observed that there are no adverse findings against Dr Talibi in criminal, civil or regulatory proceedings;
- Dr Talibi is supported by an impressive body of testimonial evidence from colleagues, family and friends who are aware of the allegations and attest that he has demonstrated no discriminatory behaviour in their presence, and has always behaved politely, respectfully to women and honestly. A number also attest to his clinical skills and positive interactions with patients;
- Dr Talibi is a competent clinician;
- A very significant time has elapsed since Dr Talibi's misconduct and there is no suggestion that there has been any repetition.

38. The Tribunal balanced the aggravating and mitigating factors in this case and concluded that the aggravating factors outweighed the mitigating factors to a very significant extent and concluded that the misconduct found proved was exceptionally serious.

39. In reaching this conclusion, the Tribunal had particular regard to the nature and seriousness of the misconduct, the wide range of misconduct and Dr Talibi's limited insight.

40. The Tribunal observed that the matters found proved were highlighted in paragraph 56 of the SG as matters where "Tribunals are ...likely to take more serious action":

*'a issues relating to probity – ie being honest and trustworthy and acting with integrity...*

*b discriminating in relation to characteristics protected by law: age, disability, gender reassignment, race, marriage and civil partnership, pregnancy and maternity, religion or belief, sex and sexual orientation...*

*d misconduct involving violence or offences of a sexual nature...'*

41. With regard to the matters of dishonesty, the Tribunal acknowledged that the dishonesty proved was not the most serious, although, as it has observed above, the Tribunal found that the dishonesty was premeditated and repeated.

42. When considering the impact of Dr Talibi's dishonesty, the Tribunal had regard to paragraph 124 of the SG:

*'Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.'*

43. With regard to the matters proved in relation to Ms X, the Tribunal had regard to paragraph 150 of SG: *"Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies"*

44. The Tribunal acknowledged that the misconduct found proved did not involve a patient, but the Tribunal was satisfied that a period of escalating abuse culminating in a rape is extremely serious misconduct likely to impact significantly on the confidence and trust in the profession of patients, colleagues and the wider public.

45. The Tribunal also reminded itself of the findings it had made regarding Dr Talibi's collection of images which the Tribunal found appeared to glorify violence.

46. The Tribunal concluded that the matters proved were so serious and covered such a wide range of misconduct that the mitigating factors could have little impact on the seriousness of the appropriate sanction in this case.

47. The Tribunal also had regard to Dr Talibi's insight into his misconduct. The Tribunal acknowledged that there has been no repetition of misconduct in many years and Dr Talibi has demonstrated that he can form a relationship which has not been marred by XXX, violence and sexual assault.

48. In its determination at the impairment stage the Tribunal made findings that Dr Talibi's insight was very limited, and he appeared to blame others for his misconduct.



Accordingly, it concluded that there was a significant risk of repetition despite the passage of time.

49. The Tribunal read further material placed before it at this stage. It saw that Dr Talibi had engaged in further study some of which was related to his work, and online courses relating to probity and ethics, on 9 days in July 2025.

50. The Tribunal read a testimonial from [Ms Q] who said that she had been in a relationship with Dr Talibi [XXX] and he *“is not an abusive, violent or controlling person and this has never been my experience with him.”* and said that she had *“never witnessed any manifestations of these very serious allegations.”*

51. The Tribunal also read a reflective piece by Dr Talibi sent to the Tribunal on 25 July 2025. The Tribunal saw that Dr Talibi had reflected upon his fraud with EDF electricity which he admitted at the start of the hearing. The Tribunal observed that Dr Talibi expressed an understanding that his dishonesty could impact upon public confidence in doctors. Nevertheless, the Tribunal observed that even with regard to this matter, Dr Talibi had demonstrated little understanding of why he had behaved as he did on not one but two occasions and how he should ensure that he was not in that frame of mind in the future.

52. With regard to the matters that were proved during the hearing, the Tribunal acknowledge that it is difficult for Dr Talibi to demonstrate insight into matters that he denies. The Tribunal accepted the submissions of both Mr Peacock and Mr Jackson that the Tribunal should not equate denial with lack of insight.

53. The Tribunal also acknowledged that Dr Talibi’s task is made more difficult because of the broad range of misconduct into which he needs to develop insight.

54. The Tribunal read the following passage from Dr Talibi’s recent reflection:

*‘I would like to lastly be clear that I shall not undermine the severity of the allegations irrespective of having denied them. I have never or would I ever conduct myself in such a manner as alleged towards any intimate partner, but I understand the gravity and seriousness of them as [XXX], I must be true to myself to continue as I have in my past relationships as I will in this, to continue to be respectful, open and communicate.’*

55. The Tribunal found that this account of insight, developed over eight years, falls significantly short of demonstrating an understanding of the impact of the findings in this case on the profession and the public and how he has changed.

56. Having regard to all these matters, the Tribunal was left in the position of having insufficient, if any, reassurance that Dr Talibi understands the real seriousness of what he did, why he did it and the changes he needs to make to ensure that there is no repetition. The Tribunal found that the time that Dr Talibi has taken to develop even the most superficial insight gave it no confidence that he has the capacity to develop sufficient insight within a reasonable time.

57. The Tribunal acknowledged Mr Peacock's submission that by his more recent actions and reflections, Dr Talibi has demonstrated that he is capable after many years of developing some insight. It also accepts Mr Peacock's submission that insight does not need to be perfect before a Tribunal can rely upon it. However, in this case the Tribunal is satisfied that the insight that Dr Talibi has developed is so little, so limited and so late that it cannot give the Tribunal any confidence that Dr Talibi has sufficient insight into the misconduct found proved in this case.

58. Before leaving the issue of insight and its impact upon sanction, the Tribunal records that it came to the conclusion that the matters proved in this case were so serious that it is not easy to envisage a level of insight and remediation that would impact significantly upon the sanction necessary to protect the public, including promoting public confidence in the medical profession.

### **No action**

59. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Talibi's case, the Tribunal first considered whether to conclude the case by taking no action.

60. The Tribunal determined that there were no exceptional circumstances to justify taking no action in this case. The Tribunal determined that in view of the serious nature of Dr Talibi's misconduct and the findings made by the Tribunal at the impairment stage, it would not be sufficient, proportionate or in the public interest to conclude the case by taking no action.

## Conditions

61. The Tribunal next considered whether to impose conditions on Dr Talibi's registration. It bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable. 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 Talibi's misconduct, in particular because Dr Talibi's misconduct did not occur in a work setting. In any event, the Tribunal concluded that a period of conditional registration would not be a sufficient, appropriate, or proportionate sanction to satisfy the wider public interest.

## Suspension

62. The Tribunal had regard to its findings in respect of misconduct and impairment, as well as the aggravating and mitigating factors listed above. It considered the paragraphs of the SG in relation to suspension, including:

*"91. Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*

*92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (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."*

63. The Tribunal also had regard to the following sections of paragraph 97 of the SG:

*“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.*

*f. No evidence of repetition of similar behaviour since incident.*

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

64. The Tribunal determined that Dr Talibi’s actions did amount to a serious breach of GMP and was clear that any sanction lower than suspension would not have been sufficient. The Tribunal took into account the fact that suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and the public about what is regarded as behaviour unbecoming a registered doctor.

65. Turning to the matters set out in paragraph 93 of the SG (above), the Tribunal acknowledged that there has been no repetition of the misconduct in this case. Nevertheless, it determined that there has been no acknowledgement of fault (as envisaged in paragraph 93 of the SG) in respect of the most serious matters of XXX and sexual violence. For the reasons set out above the Tribunal determined that there is a lack of adequate insight having regard to the passage of time and the Tribunal could not conclude that Dr Talibi was likely to develop sufficient insight during even the maximum period of suspension allowed.

66. The Tribunal also determined that the risk of repetition remained significant having regard to the gravity and wide-ranging nature of the misconduct, and the period of time over which it occurred.

67. The question which the Tribunal considered, in the light of these findings, was whether Dr Talibi's misconduct was fundamentally incompatible with continued registration.

68. To assist it to resolve that question the Tribunal had regard to paragraph 109 of the SG which provides that:

*"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.*

*c. Doing serious harm to others (patients or otherwise)...*

*...*

*g Offences involving violence.*

*h Dishonesty, especially where persistent and/or covered up...*

*f. Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).*

*...*

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

69. The Tribunal concluded that all the matters set out above apply in this case and taken together with the Tribunal's findings lead inevitably to the conclusion that Dr Talibi's misconduct is fundamentally incompatible with continued registration.

70. The Tribunal reminded itself of Mr Peacock’s submission that this was not the case because Dr Talibi’s misconduct did not take place within the context of the doctor-patient relationship, and he has developed sufficient insight.

71. The Tribunal rejected that submission because of the gravity and nature of Dr Talibi’s wide ranging misconduct and because it found that his insight was inadequate for all the reasons set out above. In this context, the Tribunal reminded itself of Paragraph 108 of the SG, which provides:

*“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.”*

## Erasure

72. Having excluded all other sanctions, the Tribunal considered whether, in all the circumstances of Dr Talibi’s case, erasure was the only sanction to meet the overarching objective. The Tribunal had regard to the following paragraphs of the SG, which it considered to be engaged in this case:

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

73. The Tribunal acknowledged that Dr Talibi is a well-regarded doctor and as such represents a significant resource. However, the Tribunal reminded itself that it must impose a sanction that is sufficient to promote and maintain public confidence in the profession and promote and maintain proper professional standards and conduct for the members of the profession.

74. In all the circumstances, the Tribunal determined that Dr Talibi’s conduct was fundamentally incompatible with his continued registration. It concluded that erasure was the only sanction that it could impose given the seriousness of the misconduct, the lack of insight and remediation shown and the risk of repetition that remained. In particular it

concluded that erasure was the only sanction which would adequately fulfil the second and third limbs of the overarching objective, namely: to promote and maintain public confidence in the medical profession; and to promote and maintain proper professional standards and conduct for members of the profession.

75. The Tribunal therefore directs that Dr Talibi's name be erased from the GMC registers.

#### **Determination on Immediate Order - 08/08/2025**

1. Having determined to erase Dr Talibi's name from the GMC registers, the Tribunal considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Talibi's registration should be subject to an immediate order.

2. The Tribunal observed that Dr Talibi did not attend after the sanction was announced. However, he was represented by Mr Peacock who was content to proceed in his absence. Mr Jackson invited the Tribunal to proceed in Dr Talibi's absence because he was represented by Mr Peacock who had represented him throughout these proceedings.

3. The Tribunal was satisfied that it was in the interest of justice to proceed because Dr Talibi knew that these proceedings were continuing, and he was represented by Mr Peacock.

#### **Submissions**

4. On behalf of the GMC, Mr Jackson referred the Tribunal to paragraphs 172, 173 and 178 of the SG. He reminded the Tribunal of its finding that the misconduct was exceptionally serious and its finding regarding Dr Talibi's insight. He reminded the Tribunal that if it did not make an immediate order the erasure would not come into force for at least 28 days and, if Dr Talibi appealed, not until his appeal was resolved. He submitted that it would be corrosive of public confidence in the profession if Dr Talibi were to return to unrestricted practice in those circumstances.

5. On behalf of Dr Talibi, Mr Peacock informed the Tribunal that on instructions he had no submissions.

## The Tribunal's Determination

6. In reaching its decision, the Tribunal has exercised its own judgement and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order only if it is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest or is in the best interests of the practitioner. It has also considered the guidance given in paragraphs 172, 173, and 178 of the SG relating to immediate orders:

*172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*

*173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*

...

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

7. The Tribunal also had regard to its previous determinations and the submissions it heard.

8. The Tribunal concluded that it would be inconsistent with its findings regarding the seriousness of Dr Talibi's misconduct and the risk of repetition if Dr Talibi were to be able to return to unrestricted practice. Accordingly, the Tribunal was satisfied that it was necessary



to make an immediate order of suspension in the public interest, to maintain public confidence in the profession.

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

10. The interim order is hereby revoked.

11. That concludes this case.

**ANNEX A – 23/04/2024**

**Application under Rule 41 for the entirety of the hearing to be held in private**

1. This determination will be handed down in private. However, as this case concerns Dr Talibi's alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.
2. Dr Talibi's hearing was due to commence on 8 April 2024 and was listed for 25 days. On 5 April 2024, the start of Dr Talibi's hearing was postponed until 17 April 2024.
3. At the outset of hearing, on behalf of Dr Talibi, Mr Peacock, Counsel, made an application pursuant to Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), to exclude members of the public for the entirety of the hearing. In the alternative, Mr Peacock submitted that Dr Talibi should be anonymised.

**The Evidence**

4. XXX
5. XXX
6. XXX
7. XXX
8. XXX

9. XXX

10. XXX

11. XXX

12. XXX

13. XXX

14. XXX

15. XXX

16. XXX

17. XXX

18. XXX

19. XXX

20. XXX

### **Submissions**

#### On behalf of Dr Talibi

21. Mr Peacock submitted that Dr Talibi's case should be held in private, or alternatively, his name be anonymised under two broad grounds. XXX.

22. XXX

23. XXX

24. XXX

25. Mr Peacock acknowledged that *'The principle of open justice is important; a Tribunal will need to be persuaded to disapply it.'* He further acknowledged that the test for holding a private hearing was necessity, not mere convenience.

26. Mr Peacock submitted that this was a case where the Tribunal had to carry out a balancing exercise between the interests of Dr Talibi and the public interest in open justice.  
XXX

27. XXX

28. XXX

29. XXX

30. He submitted that, in all the circumstances, Dr Talibi had discharged the burden of establishing that the hearing should be held in private.

On behalf of the GMC

31. On behalf of the GMC, Mr Jackson, opposed the application for the entirety of the hearing to proceed in private, and for Dr Talibi to be anonymised.

32. Mr Jackson drew the Tribunal's attention to the relevant law and the overarching objective. XXX

33. XXX

34. In respect of the anonymity of Ms X, the alleged victim of sexual assaults in the Allegation, Mr Jackson submitted that that Ms X's anonymity will be protected by the provisions of Section 1 of the Sexual Offences (Amendment) Act 1992 which prevents the publication of any details which could lead to her being identified XXX. Mr Jackson submitted that her identity will be further protected by the practice of anonymising her in the hearing.

35. Mr Jackson submitted that Dr Talibi had not discharged the burden of showing that the principle of *'open justice'* should be departed from in favour of a private hearing in this case.

### The Tribunal's Approach

36. The Tribunal had regard to Rule 41 of the Rules XXX

37. XXX

38. Accordingly, the Tribunal bore in mind that it was required to perform a balancing exercise between the interests of Dr Talibi and the principle of open justice. Before departing at all from a public hearing, the Tribunal must be satisfied that it is necessary (not merely convenient) to do so. It must depart no more than is necessary XXX and ensure a fair hearing. In order to depart from the principle of open justice, the Tribunal must be satisfied that there is cogent evidence to do so.

39. XXX. The Tribunal must have the overarching objective in mind and acknowledge that open justice is an important plank in maintaining public confidence in the profession and the regulatory process that underpins it, which is particularly engaged in sensitive cases.

40. In sensitive cases, it is particularly important that the public can see and understand why adverse conclusions were drawn against a doctor without fearing that they were unfairly treated. It is equally important that, if a favourable conclusion for the doctor is reached, the public can be reassured that important issues have been taken seriously.

41. The Tribunal reminded itself that the principle of open justice is not absolute and that there have been cases where hearings have been held in private to protect witnesses, including children, and to protect XXX. The Tribunal also reminded itself that it must have regard to the importance of a doctor being able to take part fully in their hearing and give evidence. The Tribunal must consider carefully what steps, if any, it needs to take to ensure that.

### The Tribunal's Decision

42. XXX

43. XXX

44. XXX

45. XXX

46. XXX

47. XXX

48. XXX

49. The Tribunal acknowledged that the matters set out in the Allegation, including those relating to Ms X, are likely to be acutely stressful for Dr Talibi. It considered that there was a risk that Dr Talibi could find parts of Ms X's evidence distressing. However, having considered the XXX evidence, the Tribunal was not persuaded that this risk could not be addressed by other means, rather than proceeding wholly in private. For example, the Tribunal considered that it could accommodate adjournments as necessary for Dr Talibi to speak with his representatives, XXX or to otherwise reflect and recompose himself as needed.

50. The Tribunal concluded that there was not sufficient evidence to persuade it to depart from the need to maintain public confidence in the profession and the regulatory system by holding hearings in public. Further, the Tribunal concluded that it would keep matters relating to XXX under review as the hearing continues.

51. In respect of anonymisation, the Tribunal was satisfied that the measures already in place were sufficient, namely that Ms X's anonymity is protected by her entitlement to lifelong anonymity under s1 of the Sexual Offences Amendment Act 1992. In addition, the Tribunal was mindful of the steps that would be taken in respect of publishing materials relating to this hearing to remove information that could indicate the relationship between Ms X and Dr Talibi and other possible identifiable features. The Tribunal accepted that there might be occasions during oral evidence where it is appropriate for specific matters to be heard in private. The Tribunal was satisfied that this could be appropriately addressed during the course of proceedings. The Tribunal was not persuaded that there was any requirement to anonymise Dr Talibi in order to preserve Ms X's anonymity, nor did it consider that such a step was required to ensure '*balance*' between the complainant and Dr Talibi.

52. In all the circumstances, having balanced XXX against the need to maintain public confidence by holding hearings in public, the Tribunal concluded that Dr Talibi had not discharged the burden upon him to prove that the principle of open justice should be departed from.

53. Accordingly, the Tribunal determined to refuse the application made on behalf of Dr Talibi that the hearing proceed entirely in private.

## ANNEX B – 26/04/2024

### Application under Rule 34(1) to exclude evidence

1. This determination will be handed down in private. However, as this case concerns Dr Talibi's alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.
2. Prior to the opening of the case, on behalf of Dr Talibi, Mr Peacock made an application under Rule 34(1) of the Rules. He addressed the Tribunal on the admissibility of 22 passages in the main hearing bundle and invited the Tribunal to exclude them all.

### Submissions

#### On behalf of Dr Talibi

3. Mr Peacock drew the Tribunal's attention to the case of *Kearsey v Nursing and Midwifery Council* [2016] EWHC 1603 (Admin) ('*Kearsey*'). He referred the Tribunal to the facts of the case, including that *Kearsey* involved a conviction for a criminal offence. He submitted therefore that Mr Justice Ouseley's comments about misconduct cases were not binding. Mr Peacock relied on paragraph 23 of *Kearsey* as setting out the correct position with regard to misconduct cases:

*'23. Ms Hobcraft relied on the decision of HHJ Raynor QC in El-Baroudy v GMC [2013] EWHC 2894 (Admin) as support for the proposition that if conduct which could be the subject of a charge, that is a particularised allegation of misconduct, is to be put before the Panel, it must be so particularised, whether it was relevant to a finding of misconduct or only to impairment or sanction. Dr El-Baroudy faced many*

*particularised charges of an allegation of misconduct about the way he dealt with a person in need of medical attention who later died in custody. The particulars of charges did not allege that his failings had caused death or the loss of a realistic chance of survival. Evidence was led to that effect. The issue should have been charged, under the Rules relating to particularisation, in the notice of hearing. As it was not charged, evidence about it should not have been led, nor should it have affected the decisions on impairment or sanction. Admitting the evidence “amounted to a serious procedural irregularity that renders the result on impairment and on sanction unjust.” HHJ Raynor referred to a comment of Collins J in Roomi v GMC [2009] EWHC 2188 (Admin) in which he said that the GMC Rules, 15 and 17, meant that the practitioner should not have to face any allegation not contained in the notice of hearing, unless it was amended. In Chauhan v GMC, [2010] EWHC (Admin) 2003, King J had allowed an appeal on the basis that the Panel had “improperly and unfairly gone outside the scope of the notice of hearing.” This was confined to the first, fact finding stage: findings could not be based on facts which could have been but which were not particularised. Pill LJ said in Strouthos v London Underground Ltd [2004] EWCA Civ 402 at [12], an appeal from the EAT, that it was a basic proposition in criminal and disciplinary proceedings that the charge should be “precisely framed” and “the evidence confined to that specifically in the charge”. None of these four cases involved convictions.’*

4. Mr Peacock submitted that the paragraph of Kearsley that the GMC would seek to rely on, paragraph 37, was not binding in the same way. Paragraph 37 states:

*‘37. Had there been no conviction charge as part of the allegation of impairment, and merely an allegation of misconduct particularised as the assault on 4 July, I am not necessarily satisfied that the earlier assault could only be adduced in evidence, conformably with the Rules, if particularised as a charge. Such a restricted approach would exclude evidence which might otherwise be admissible to prove the assault on 4 July, for example in rebuttal of some defence, or as probative bad character evidence. It would exclude evidence of the relationship surrounding the assault. I see no reason why that would always have to be a separate particular of misconduct. The real question is whether it could fairly be admitted.’*

5. Mr Peacock then took the Tribunal through each of the 22 passages identified to be in dispute and provided specific submissions as to why each should be excluded from the evidence before the Tribunal. In respect of a number of passages, he submitted that they



amounted to evidence of possible misconduct that had not been included in the Allegation and were therefore inadmissible. In respect of a number of passages he submitted that they were not relevant to any issue the Tribunal had to decide and in respect of others he submitted that it would be unfair to admit the evidence because proper disclosure had not been made to Dr Talibi's representatives.

6. In relation to the admissibility of a GMC telephone note with an '*Admin Officer*' at Birmingham Magistrates' Court, Mr Peacock submitted that it would not be right to admit that evidence as hearsay, both because it was not relevant to an issue that the Tribunal had to decide and the fact that it was only contained in a telephone attendance note meant that it would be unfair to admit it.

#### On behalf of the GMC

7. On behalf of the GMC, Mr Jackson submitted that having regard to *Kearsey* and Rule 34(1) (set out below), that all 22 passages could be admitted into evidence because it was fair and relevant to do so.

8. Mr Jackson made submissions on each passage individually. He submitted that the passages containing Ms X's allegations against Dr Talibi were relevant to and supportive of paragraphs of the Allegation. He submitted they were relevant because they included further evidence of his controlling and aggressive behaviour and evidence of what had potentially led Ms X to remain in a relationship with him. He submitted that such evidence did not need to be charged in the Allegation to be admissible. He observed that if an Allegation was required to charge every instance of possible misconduct, it would be unreasonably long.

9. Mr Jackson explained the GMC's view of the relevance of a number of other passages that had been queried by Mr Peacock. He explained what he intended to ask Dr Talibi about them in cross-examination, and to explore whether there was a pattern of behaviour, including that Dr Talibi has a fascination with weaponry and that there is a pattern of him taking covert recordings.

10. Mr Jackson also set out the matters he submitted the Tribunal should take into account when considering the fairness of admitting particular passages of evidence: how much notice the doctor had been given of the evidence to be adduced; the opportunity that he had to address that evidence and the opportunity he had to give or call evidence to

contradict the evidence; by admitting evidence the Tribunal was not ruling that it was true or that it did assist the Tribunal only that it was capable of doing so.

### The Tribunal's Approach

11. The Tribunal accepted the advice of the Legally Qualified Chair and approached the issue of admissibility as follows.

12. The Tribunal acknowledged that it had a wide discretion to admit evidence. It reminded itself of Rule 34 of the rules which provides that:

*'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.'*

[The Tribunal's emphasis]

13. The Tribunal had regard to the case of *Kearsey v Nursing And Midwifery Council* [2016] EWHC 1603 (Admin) and noted the decision of the High Court in *El-Baroudy v GMC* [2013] EWHC 2894 (Admin) (*'El-Baroudy'*) as support for the proposition that *'if conduct which could be the subject of a charge, that is a particularised allegation of misconduct, is to be put before the 'Panel', it must be so particularised, whether it was relevant to a finding of misconduct or only to impairment or sanction.'*

14. It noted that in that case, Dr El-Baroudy faced many particularised charges in an Allegation of misconduct arising from the way he dealt with a person in need of medical attention who later died in custody. The particulars of the Allegation did not allege that the doctor's failings had caused death or the loss of a realistic chance of survival. Nevertheless, evidence was led to that effect and the panel made a finding adverse to the doctor.

15. The Court held that if the GMC sought a finding that the doctor had contributed to the patient's death, the issue should have been charged, under the Rules relating to particularisation, in the notice of hearing. As it was not charged, evidence about it should not have been led, nor should it have affected the decisions on impairment or sanction. Admitting the evidence *'amounted to a serious procedural irregularity that renders the result on impairment and on sanction unjust.'*

16. The Tribunal had regard to Mr Peacock's submission that any departure from that approach in *Kearsey* (above) was '*obiter*' or merely guidance in a pure misconduct case because the judgment related only to a '*conviction case*'.

17. The Tribunal also had regard to paragraphs 36 and 37 of *Kearsey*, to which both Mr Peacock and Mr Jackson drew the Tribunal's attention, in which Mr Justice Ouseley held that it was an '*unduly blinkered approach, contrary to the purposes of the disciplinary process, if evidence before the criminal court, taken into account in the trial or sentencing process, were excluded from the disciplinary charge unless separately charged as misconduct.*' He concluded '*I am not necessarily satisfied that the earlier assault could only be adduced in evidence, conformably with the Rules, if particularised as a charge. Such a restricted approach would exclude evidence which might otherwise be admissible to prove the assault on 4 July, for example in rebuttal of some defence, or as probative bad character evidence.*'

18. The Tribunal recognised that it had to decide if there was a distinction between evidence adduced to establish an allegation not particularised in advance (for example that a doctor had caused a patient's death) and evidence which, although not direct evidence in relation to a paragraph of the allegation might nonetheless assist the Tribunal in deciding whether it was more likely, or not, that the doctor had acted as alleged in the particularised allegation.

19. The Tribunal had regard to the submissions of counsel.

20. When deciding the question of fairness, the Tribunal had regard to all the circumstances of the case including: how much notice the doctor had been given of the evidence to be adduced; the opportunity that he had to address that evidence and the opportunity he had to give or call evidence to contradict it. The Tribunal also reminded itself that by admitting the evidence it was not ruling that it was true or that it did assist the Tribunal only that it was capable of doing so and the Tribunal would decide what it accepted after hearing all the evidence.

### The Tribunal's Decision

21. Before turning to each disputed passage, the Tribunal resolved the question of when it could admit evidence which disclosed matters not specifically charged against the doctor.

22. Following *El-Baroudy*, the Tribunal noted that it should not admit evidence in support of an allegation that had not been properly particularised against the doctor. The Tribunal understood that, in the *El-Baroudy* case, the Tribunal should not have admitted evidence that the doctor had contributed to the death of a patient, if that was not alleged against him.

23. Nevertheless, the Tribunal was satisfied Tribunals may (and routinely do) admit evidence that is not direct evidence of a particularised charge but was nonetheless capable of supporting such a charge because it provided background, context or a pattern of behaviour which was capable of demonstrating that a doctor was more or less likely to have acted as alleged.

24. The Tribunal was satisfied that *El-Baroudy* is not authority for the proposition that the GMC cannot adduce such otherwise admissible evidence, or the Tribunal must exclude it, because that evidence could have been the subject of a separate allegation and was not so charged. The Tribunal is satisfied that such an approach would be unnecessarily restrictive (indeed blinkered) and run contrary to the Tribunal's duty to deal with cases fairly and justly, and protect the public. It would also result in Allegations being unnecessarily long and unwieldy.

25. Accordingly, the Tribunal considered each disputed passage in turn. The Tribunal has identified each passage by a brief description and the page number in the GMC bundle C1.

26. The Tribunal had regard to the content of paragraph 18 of Ms X's witness statement [p.10 of C1]. The disputed passage describes activities between XXX. This conduct was not particularised in the Allegation. However, the Tribunal was of the view that this passage was capable of supporting paragraphs 16, 17 and 18 of the Allegation.

27. It concluded that paragraph 18 of Ms X's statement related to the period covered by the Allegation and was capable of supporting the GMC's case that Dr Talibi had taken video recordings of Ms X in the relevant period and carried out activities that appeared to put him at some risk as alleged at paragraphs 17 and 18 of the Allegation. The Tribunal was satisfied that this evidence could be admitted without unfairness as it did not add new and/or more serious misconduct absent from the Allegation but was admitted to support allegations already made, the statement had been served on Dr Talibi and Dr Talibi has direct knowledge of the matters alleged and can respond in evidence if he so wishes.

28. The Tribunal then considered the content of paragraph 32 of Ms X's witness statement which related to her state of knowledge about XXX.

29. The Tribunal considered this passage at the same time as the passage in Ms X's police statement at [p.58 of C1] in which Ms X states that Dr Talibi had '[XXX]' The Tribunal considered that this passage could not amount to new and/or more serious misconduct that could have been part of the Allegation. However, it did, in the Tribunal's view have the potential to explain why Ms X remained in a relationship with Dr Talibi if subjected to the abuse described.

30. The Tribunal considered that both passages relating XXX could be admitted fairly. Dr Talibi had been served with notice of both and he would have the opportunity to challenge and refute what had been said by Ms X if he chose to. The Tribunal considered that Ms X's evidence about XXX, could, if accepted, be capable of supporting Ms X's evidence about the nature of her relationship with Dr Talibi. XXX. Conversely, if not accepted, it could support Dr Talibi's case by undermining Ms X's credibility.

31. The Tribunal considered the content of paragraph 34 of Ms X's witness statement [also p.15 of C1]. It considered that Ms X's account as set out in this passage related to the period covered by the Allegation. It referred to Dr Talibi becoming distressed and punching walls, which is capable of supporting paragraphs 14 and 15 of the Allegation.

32. For the reasons set out above, the Tribunal was satisfied that it was not necessary for every alleged episode to be charged in the Allegation for the evidence to be relevant to its deliberations, as long as the Tribunal bore in mind that when considering the evidence, it was concerned only with whether or not it supported the Allegation.

33. The Tribunal was satisfied that paragraph 34 of Ms X's witness statement, could, if accepted, support Ms X's allegation of controlling and aggressive behaviour by Dr Talibi. It considered that it could be admitted fairly as Dr Talibi had been given notice of it and would have the opportunity to challenge and refute what had been said by Ms X if he chose to.

34. The Tribunal moved on to other disputed passages in Ms X's police statement [p.54, 55, 56, 57, and 60 of the GMC bundle C1].

35. The Tribunal considered the content of each section, and its surrounding undisputed material, which included statements from Ms X such as:

- *‘Samed became aggressive and angry over petty matters and would say the most horrible, insulting and hurtful things to me. He would lose his temper, shout angrily and aggressively to me over matters such as me touching his designer prescription glasses in [XXX] library...’ [p.54];*
- *‘Samed shouted at me and verbally abused me. I felt scared and very frightened being near him during his fits of rage and aggression.’ [p.55];*
- *‘Samed was becoming unpredictable, violent, out of control and dangerous.’[p.56];*
- *‘I felt very intimidated and distraught witnessing this psychopathic behaviour of his. Samed made me feel in fear of him and unsafe.’ [p.57];*
- *and ‘I felt if I was to leave he would find me and come after me to harm me in punishment for leaving him.’ [p.60].*

36. The Tribunal bore in mind that the admissibility of these general statements about Ms X’s feelings about Dr Talibi had not been disputed. The Tribunal concluded that each disputed passage amounted to examples Ms X provided to explain her statements regarding her concerns about Dr Talibi’s behaviour. The Tribunal concluded that such examples were not required to be charged individually in the Allegation. It determined that they could be relevant to the Tribunal’s assessment of a potential pattern of behaviour, including that which is set out in paragraphs 14, 15 and 21 of the Allegation.

37. Further, the Tribunal determined that it was potentially fairer to Dr Talibi and would assist the Tribunal to assess this evidence if it admitted evidence of the specific examples. This would allow Ms X’s evidence to be properly tested in oral evidence. The Tribunal concluded that these passages could, if accepted, be capable of supporting Ms X’s evidence about the nature of her relationship with Dr Talibi. Conversely, if not accepted, it could support Dr Talibi’s case by undermining Ms X’s credibility.

38. Having decided to admit the passages set out above, the Tribunal concluded that it was fair to admit Dr Talibi’s response set out in a transcript of Dr Talibi’s police interview [p.217 of C1]. With regard to the question of fairness, the Tribunal also bore in mind the same considerations relating to notice and opportunity to respond, set out above.

39. The Tribunal considered the content of the passage in Ms X's police statement [p.68 of C1] relating to the items Dr Talibi had brought to XXX, including '*penknives*'. The Tribunal was satisfied that this evidence did not amount to new and/or more serious misconduct. It considered that this passage, if accepted, could be relevant to Ms X's concerns about her relationship with Dr Talibi and his behaviour, and to Dr Talibi's relationship with knives, which the GMC submitted was concerning. Otherwise, it provided context about the XXX which was the subject of significant dispute between Ms X and Dr Talibi. The Tribunal bore in mind that Dr Talibi had already responded to this in a transcript of a police interview [pp.198-199 of C1]. The Tribunal was of the view that these examples could be tested properly in oral evidence. Dr Talibi had direct knowledge of the events in question and had already set out a response to Ms X's allegation to the police. Accordingly, the Tribunal concluded that the passages in Ms X's police statement [p.68] and Dr Talibi's police interview [pp.198-199 of C1] could be admitted fairly.

40. The Tribunal considered the disputed passage in Ms X's police statement relating to Dr Talibi allegedly driving past her home on more than one occasion, including XXX [p.74 of C1]. The Tribunal accepted as a matter of fact that this passage could not be relevant to XXX. However, the Tribunal considered that this passage could, if accepted, be relevant to assessing Ms X's concerns about Dr Talibi's behaviour. Additionally, the Tribunal considered that this passage could provide relevant context for XXX. The Tribunal considered that it was fair to admit this passage because Dr Talibi had been given notice of it and would have the opportunity to challenge and refute what had been said by Ms X if he chose to. The Tribunal concluded that this passage could, if accepted, be capable of supporting Ms X's evidence about the nature of her relationship with Dr Talibi. Conversely, if not accepted, it could support Dr Talibi's case by undermining Ms X's credibility.

41. The Tribunal considered the content of the GMC telephone note [pp.170-171 of C1] with an Admin Officer from Birmingham Magistrates' Court, dated 26 April 2022. The note stated that there had been, at the time Dr Talibi had attended Magistrates' Court, signs that said recording in the court room is prohibited. It had been submitted by the GMC that this evidence could be included as it was not controversial, unlike the evidence obtained via telephone call in the case of *El Karout v NMC* [2019] EWHC 28 (Admin).

42. Mr Peacock, on behalf of Dr Talibi, had submitted that this evidence could not be accepted as fair or relevant to paragraph 10 of Allegation which related to Dr Talibi recording Magistrates' proceedings and contained no allegation that he knew or ought to have known he should not record proceedings.

43. The Tribunal was satisfied that the evidence was not relevant to anything the GMC had to prove under paragraph 10 of the Allegation because that paragraph did not allege that Dr Talibi made the recording knowing that he should not.

44. With regard to the question of fairness, the Tribunal concluded that a telephone attendance note which the provider of the information had no opportunity to check gave rise to a significant risk of unfairness. In any event, the Tribunal found that the information was so vague regarding the nature, size and location of the notices as to be completely unhelpful on the question of whether Dr Talibi was likely to have seen such notices, even if the Tribunal had to decide that.

45. For those reasons, the Tribunal does not admit this evidence.

46. The Tribunal considered the content of passages in the record of Dr Talibi's taped police interview on 24 January 2018 [pp.249-251 of C1]. The Tribunal noted that these were passages, where Dr Talibi was questioned about his internet search history. He made no comment to the questions put to him by the police officer.

47. The Tribunal first reminded itself that it was not the GMC's case that Dr Talibi was, in any way, associated with or sympathetic to terrorism. For that reason, the Tribunal concluded that the material in the passages could not be relevant to any matter the Tribunal had to decide.

48. Further, the Tribunal was satisfied that the questions put to Dr Talibi under caution in a police interview and to which he replied no comment, could not be evidence against him.

49. Therefore, the Tribunal determined to exclude the disputed passages in the record of Dr Talibi's taped police interview.

50. The Tribunal had regard to passages relating to recordings allegedly taken by Dr Talibi [p.287 and p.319 of C1]. The Tribunal bore in mind Mr Peacock's submission that he was not aware that all of these recordings had been disclosed to Dr Talibi's representatives. The Tribunal was not clear about the extent to which the GMC was relying on these recordings and whether it was intended that they be played.



51. In the absence of clarity on relevance and concerns about disclosure, the Tribunal determined that it was appropriate for the references to recordings in the disputed passages to be excluded at this stage. The Tribunal concluded that if the GMC was seeking to rely on the recordings, it could apply for the passages to be admitted in due course.

52. The Tribunal had regard to the photograph of Dr Talibi in what appeared to be his kitchen [p.312 of C1]. The Tribunal did not consider that this photograph had any probative value when considered in isolation. However, it considered Mr Jackson's submission that he intended to cross-examine Dr Talibi on his use of 'spy cameras' and his intention to ask Dr Talibi if the disputed image had been taken by one of those devices.

53. The Tribunal decided to allow the photograph to remain in the bundle C1 on the understanding that it was not evidence against Dr Talibi but that if he was to be cross examined on it, it was fairer to Dr Talibi that he had notice of this in advance and it would assist the Tribunal to have access to the photograph.

54. The Tribunal granted Mr Peacock's application to exclude the following passages of evidence: pp.170-171; pp.249-251; p.287; and p.319.

55. The Tribunal refused Mr Peacock's application to exclude the following passages of evidence: p.10; p.15 (paragraphs 32 and 34); p.54; p.55; p.56; p.57; p.58; p.60; p.68; p.74; pp.198-199; p.217; and p.312.

## **ANNEX C – 08/05/2024**

### **Application under Rule 34(1) to admit further evidence**

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

2. On behalf of the GMC, Mr Jackson made an application pursuant to Rule 34(1) of the Rules to include further evidence contained in four documents.

3. During the course of submissions, the parties agreed that two documents would not be admitted on the understanding that Mr Peacock made a formal admission on behalf of Dr Talibi, that the photographs that Ms X identified as being Dr Talibi, were photographs of him and the police interview summaries identified by DC P were an accurate record of the police interviews of Dr Talibi. It was also agreed that a statement by DC R had been obtained in response to a case management direction and would not form part of the GMC's case.

4. Accordingly, the Tribunal had only to decide whether to admit the evidence of Mr C contained in a written statement dated 15 March 2024. This statement contained his opinion of the photographs of Dr Talibi in which it was alleged he had posed whilst in possession of what appeared to be prohibited weapons, as defined by the Firearms Act 1968 (as amended). It was confirmed that Mr C would not attend the hearing to give oral evidence and Mr Jackson applied for his evidence to be read and admitted as hearsay.

## Submissions

### On behalf of the GMC

5. Mr Jackson submitted that the Tribunal could rely on Mr C's evidence, as the evidence of an expert. He submitted that expertise was not just derived from academic study and qualifications. Mr Jackson referred the Tribunal to Mr C's experience, he had served 22 years in the British Army, and was now the Infantry Weapons Collection Manager in the Small Arms Schools Corp, a civil service role. Mr Jackson submitted that Mr C's expertise and experience was established by his army career and his current position.

6. Mr Jackson submitted that even if Mr C's evidence were not admissible in civil proceedings, because his expertise could not be established and he would not attend to give evidence, the Tribunal should admit his written evidence under Rule 34(1) of the Rules which provides that *'(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.'*

7. During the course of submissions, Mr Jackson assured the Tribunal that the GMC's case was that the items with which Dr Talibi posed in the photographs *'appeared to be prohibited weapons,'* not that they actually were real prohibited weapons.

8. Mr Jackson submitted that Mr C's evidence was relevant, and it was fair to admit it because Dr Talibi had sufficient notice of it and was able to respond. Mr Jackson submitted that it was in the wider public interest to admit Mr C's evidence.

On behalf of Dr Talibi

9. On behalf of Dr Talibi, Mr Peacock submitted that the admission of Mr C's evidence was opposed. Mr Peacock told the Tribunal that he did not admit that Mr C was an expert without asking him a number of questions and drew the Tribunal's attention to the passage in Mr C's email in which he declined to attend the Tribunal to give evidence: *'I agreed to identify weapons for you which I could do but that's as far as would go. Appologies but I'm not the expert for this role.'*

10. Turning to the question of whether Mr C's evidence could be fairly admitted without him attending to give evidence, Mr Peacock referred the Tribunal to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) (*'Thorneycroft'*). Mr Peacock referred the Tribunal to paragraph 56 of Deputy High Court Judge Thomas' judgment (approved by Mrs Justice Stacey in *Mansary v Nursing and Midwifery Council* [2023] EWHC 730 (Admin):

*'In my judgment, it was essential in the context of the present case for the Panel to take the following matters into account:*

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vi) the fact that the Appellant did not have prior notice that the witness statements were to be read.'*

11. Mr Peacock took each of the *Thorneycroft* questions in turn:

- He submitted that Mr C's evidence was important to the GMC's case.
- He submitted that there were significant disputes between Mr C's evidence and the evidence of Dr Talibi and his witnesses.
- He submitted that extent of Mr C's expertise was in issue because he could not be questioned.
- He submitted that there was no suggestion of fabrication.
- He submitted that these were serious allegations of bringing the profession into disrepute that could, if found proved, have a significant impact on Dr Talibi's career.
- He submitted that there had been no explanation for Mr C's non-attendance at the hearing beyond him saying *'I agreed to identify weapons for you which I could do but that's as far as would go. Appologies but I'm not the expert for this role.'*
- He submitted that it was unknown what steps, if any, had been taken by the GMC to secure Mr C's attendance at the hearing.
- He submitted that he, as Dr Talibi's Counsel, had not been informed that Mr C was not attending to give evidence at the hearing until the hearing had commenced.

12. Mr Peacock acknowledged that in light of Mr Jackson's concession that the GMC did not allege that the items held in the photographs by Dr Talibi were genuine firearms, the evidence of Mr C went only to the question of whether the items looked like real firearms. He told the Tribunal that he had relied upon the position adopted by the GMC at a case management hearing.

13. At the end of the submissions, Counsel put before the Tribunal a number of authorities dealing with the question of who is an expert in civil proceedings. It was agreed that those authorities were properly summarised in the following passage from the Supreme Court Practice (the White Book):

*'As held by the Supreme Court in the Scottish case of Kennedy v Cordia (Services) LLP [2016] UKSC 6 at [44], there are four considerations which govern the admissibility of expert evidence (referred to in that case as "skilled evidence"):*

*(i) whether it will assist the court in its task (this requirement is discussed further in the context of r.35.4 below);*

(ii) whether the expert has the necessary knowledge and experience. “The skilled witness must demonstrate to the court that he or she has relevant knowledge and experience to give either factual evidence, which is not based exclusively on personal observation or sensation, or opinion evidence. Where the skilled witness establishes such knowledge and experience, he or she can draw on the general body of knowledge and understanding of the relevant expertise” at [50];

(iii) whether the expert is impartial in their presentation and assessment of the evidence. At [51] the Supreme Court made it clear that an expert’s failure to comply with their duties of independence and impartiality may render their evidence inadmissible; and

(iv) whether there is “a reliable body of knowledge or experience to underpin the expert’s evidence.” What constitutes “a reliable body of knowledge or experience” will depend on the subject matter of the proposed expert evidence. Expert evidence falling within a “recognised scientific discipline” will present little difficulty. More challenging issues may arise “where the science or body of knowledge is not widely recognised”; see further [54]–[56].’

### The Tribunal’s Approach

14. The Tribunal acknowledged that it had a wide discretion to admit evidence. It reminded itself of Rule 34 of the rules which provides that:

*‘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.’*

[The Tribunal’s emphasis]

15. The Tribunal had regard to paragraphs 45 (set out below) and 56 (set out above) of *Thorneycroft*:

*‘45. For the purposes of this appeal, the relevant principles which emerge from the authorities are these:*

*1.1. The admission of the statement of an absent witness should not be regarded as a routine matter. The FTP rules require the Panel to consider the issue of fairness before admitting the evidence.*

*1.2. The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but it will not always be a sufficient answer to the objection to admissibility.*

*1.3. The existence or otherwise of a good and cogent reason for the non-attendance of the witness is an important factor. However, the absence of a good reason does not automatically result in the exclusion of the evidence.*

*1.4. Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit it requires the Panel to make a careful assessment, weighing up the competing factors. To do so, the Panel must consider the issues in the case, the other evidence which is to be called and the potential consequences of admitting the evidence. The Panel must be satisfied either that the evidence is demonstrably reliable, or alternatively that there will be some means of testing its reliability.*

*In my judgment, unless the Panel is given the necessary information to put the application in its proper context, it will be impossible to perform this balancing exercise.'*

## The Tribunal's Decision

16. The Tribunal first asked itself whether it was satisfied that Mr C was an expert within the definition set out above. It was satisfied that Mr C's evidence would assist the Tribunal, although it was not as important as it would have been if the allegation has been that the items in the photographs were real firearms. It was also satisfied that Mr C was an impartial witness. The Tribunal noted that Mr C distinguished between those items he could identify with certainty and those he could not, and his concessions reassured the Tribunal of his impartiality.

17. Turning to the question of Mr C's knowledge and experience, the Tribunal found that this was not properly set out or documented, although the Tribunal reminded itself that it was concerned only with the appearance of the items not whether they were real firearms.

18. Turning to the fourth condition set out above, namely that there was ‘*a reliable body of knowledge or experience to underpin the expert’s evidence*’, the Tribunal concluded that it had not received any evidence from which it could make a decision one way or the other.

19. Accordingly, the Tribunal was not satisfied that Mr C’s evidence would be admitted as expert evidence in civil proceedings.

20. The Tribunal then reminded itself of the provisions of Rule 34(1) of the Rules and found that it could admit the evidence whether or not it was admissible in civil proceedings as expert evidence if it was relevant and fair to do so.

21. The Tribunal reminded itself that Mr C would not attend to answer questions and that if it were to admit his evidence, it would be by way of his written statement. Accordingly, the Tribunal followed the guidance set out in the *Thorneycroft* case above.

22. The Tribunal was satisfied that on the narrow issue of appearance, the evidence of Mr C was helpful but was neither sole nor decisive. The Tribunal was satisfied that on the issue of appearance (as opposed to whether an item was a real firearm) a Tribunal was entitled to and could form its own view.

23. The Tribunal was satisfied that on the issue of appearance, there was little challenge to Mr C’s evidence. It is not suggested that Mr C had fabricated his evidence. At the same time the Tribunal acknowledged that the allegation to which Mr C’s evidence relates is serious, there is no good reason for his non-attendance and Dr Talibi was notified late in the day that Mr C would not attend.

24. Balancing all these matters, the Tribunal decided that Mr C’s evidence was relevant to the issue of appearance, which the Tribunal had to decide and it was fair to admit it because it was relevant solely to the issue of appearance regarding which there was no significant dispute.

25. The Tribunal therefore determined to grant the GMC’s application to adduce the evidence of Mr C.

**ANNEX D – 08/05/2024**

### Application under Rule 34(1) to admit further evidence

1. This determination will be handed down in private. However, as this case concerns Dr Talibi's alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.
2. On behalf of Dr Talibi, Mr Peacock made an application pursuant to Rule 34(1) of the Rules to include further evidence.
3. The Tribunal was required to determine the admissibility of the following documents, the Official Memorandum created by West Midlands Police for the GMC, dated XXX, a review of the case against Dr Talibi by DS S and a review by DI T. The Tribunal considered these together as 'the police report'. It also considered a witness statement from Mr B, who previously had a XXX connection to Ms X.

### Submissions

#### On behalf of Dr Talibi

4. Mr Peacock identified the passages in the police report that were disputed and made submissions as to why it would be fair and relevant to admit them into evidence.
5. Mr Peacock referred the Tribunal to the case of *Towuaghantse v GMC* [2021] EWHC 681 (Admin) (*'Towuaghantse'*), in which Mr Justice Mostyn held that the conclusions of a Coroner were *'plainly admissible, and was rightly admitted'* and then *'weighed with all the other evidence in determining the facts'*. Mr Justice Mostyn stated the importance of a Tribunal not making *'unfair use of the Coroner's narrative conclusion'* and had it done so, *'then its decision would be appealable'*.
6. Mr Peacock acknowledged that the evidence of Trust investigations is treated differently than that of a Coroner or a High Court Judge as set out in *Towuaghantse*. However, he submitted that the evidence Dr Talibi's representatives sought to rely upon was admissible although it should not be used for the wrong purpose. Mr Peacock submitted that the relevance of the evidence in the police report was threefold:
  - 1) The evidence provides relevant background;
  - 2) The evidence explains why Dr Talibi was not prosecuted;



3) The evidence demonstrates the fullness of the police investigation.

7. Mr Peacock submitted that it was appropriate for the Tribunal to be made aware, as a matter of balance, why Dr Talibi was not prosecuted. He reminded the Tribunal that the GMC was content for some information about the police decision not to prosecute Dr Talibi to be before it. He submitted that the Tribunal should have access to the whole police report.

8. In respect of Mr B's statement, Mr Peacock informed the Tribunal that Mr B would be attending to give oral evidence at the hearing. Mr Peacock submitted that Ms X's credibility is in issue as Dr Talibi denies all her allegations of assault, coercive control and rape. Mr Peacock submitted that to rule Mr B's statement to be inadmissible, in the context of Ms X's allegations against Dr Talibi would be unfair.

#### On behalf of the GMC

9. On behalf of the GMC, Mr Jackson submitted that the case of *Towuagbantse* was not applicable to the police report in this case. He submitted that it was common practice for evidence obtained at Trust investigations to be put before a Tribunal. However, the Trust investigation's deliberations, decisions and outcomes are not routinely in evidence. Mr Jackson submitted that the police report was a record of the non-admissible opinions of junior police officers, and could not properly be admitted into evidence.

10. In respect of Mr B's statement, Mr Jackson submitted that the statement is second hand hearsay evidence, with Mr B not providing direct evidence of matters he witnessed himself. He submitted that the statement had the potential to unfairly tarnish the reputation of Ms X, without a proper evidential basis. Mr Jackson submitted that there was no suggestion that Ms X had a propensity to tell lies. Therefore, he submitted that it could not be proper to admit Mr B's statement.

#### **The Tribunal's Approach**

11. The Tribunal acknowledged that it had a wide discretion to admit evidence. It reminded itself of Rule 34 of the rules which provides that:

*'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.'*

[The Tribunal's emphasis]

12. The Tribunal reminded itself that this point was emphasised in the judgment in *Towuaghantse* in which the court stated that there is a long history of admitting evidence in regulatory proceedings that would be inadmissible in court proceedings.

13. The Tribunal also had regard to the decision in *Enemuwe v Nursing and Midwifery Council* [2013] EWHC 2081 (Admin) in which the court held that the findings of hospital or NHS trust disciplinary hearings should not be put before Tribunals. The Tribunal notes that this decision has been regarded as binding upon Tribunals and panels for many years.

14. The Tribunal noted that the courts have treated the reasoned decisions of Judges and Coroners differently to the decisions of hospital or trust investigations. The Tribunal concluded that, in those circumstances, it would not be appropriate to treat the log of police decisions as if it were the decisions of a High Court Judge or coroner. The Tribunal concluded that the correct approach was to treat it as if it were a record of a hospital or trust disciplinary hearing.

15. The Tribunal was satisfied that the consequence of that is that it would admit any evidence that had been collected by the police but would not include the conclusions of the police regarding the material they had collected nor would it admit police summaries of evidence that was before the Tribunal or police officers' views of evidence, such as video or audio recordings, which either side was free to put before the Tribunal.

## The Tribunal's Decision

### Mr B's Statement

16. The Tribunal first considered the admissibility of Mr B's statement. The Tribunal had regard to the full statement and bore in mind the connection that Mr B had to Ms X XXX. There were eight passages of the statement in dispute.

17. The Tribunal considered paragraph 7 of Mr B's statement. It determined that Mr B's assessment of Dr Talibi, '*when I met with him, he seemed polite and courteous*' could properly be admitted as evidence that was supportive of Dr Talibi's good character. The Tribunal determined to exclude the rest of paragraph 7, it did not consider that it could be assisted in its decision-making XXX.

18. XXX

19. XXX

20. XXX

21. XXX

22. XXX

23. XXX

#### The Police Report

24. The Tribunal considered the full police report. It was a record of the police investigation into Dr Talibi, including the allegations made by Ms X and the police decision not to prosecute.

25. The Tribunal was satisfied that the police report had been properly disclosed and that it contained relevant lines of enquiry for Dr Talibi's representatives to pursue.

26. The Tribunal determined that it was appropriate to include a passage relating to Dr Talibi not disclosing '*the pin numbers for his electrical items*' [p.3 of D8]. The Tribunal considered that this passage contained further context for the passage below which was not disputed and also confirmed that Dr Talibi had '*refused to disclose his pin numbers*'. The Tribunal was satisfied that this factual passage could be admitted without unfairness, not least because it showed that Dr Talibi had a legitimate reason for being reluctant to disclose his pin numbers.

27. The Tribunal also determined that it was appropriate to include the passage relating to the charging decision [p.4 of D8]. The Tribunal considered that this was a neutral factual statement, and the same passage confirmed DC P's absence, which the Tribunal had already received evidence about. The Tribunal was satisfied that it had been provided with evidence in other documents confirming that Dr Talibi had not been prosecuted.

28. In considering the rest of the police report, the Tribunal bore in mind that the report had been produced for the following purpose: *‘I am reviewing the evidence presented to me to determine whether there is sufficient evidence to present to the CPS on the full code test and where I consider that there is a realistic prospect of a conviction.’*

29. The Tribunal was satisfied that it could not be assisted by the opinions of the police officer who had created the report. XXX

30. The Tribunal took into account that some of the analysis of evidence in the police report, related to evidence that was also before the Tribunal. For example, Ms X’s police statement, the photographs of Ms X with Dr Talibi XXX. Such analysis provided no new relevant material for the Tribunal to consider. Further, the Tribunal is required to form its own view about that evidence and therefore did not consider that it would be assisted by the analysis of a third party who was applying a different test.

31. There were references in the police report to material that had not been made available to the Tribunal, XXX. The Tribunal determined that it could not be fair to admit summaries of evidence when the source material was not available for it to form its own independent judgment.

32. The Tribunal therefore determined to exclude all disputed passages of the police report save for those on p.3 and p.5 of D8. The Tribunal determined that the opinions and analysis in the police report about evidence that was before the Tribunal could not assist it in its own deliberations and did not provide any new material. The summaries of evidence not before the Tribunal could not be included fairly as the Tribunal would not have the opportunity to form its own judgment about the evidence upon which those summaries were based.

### Conclusion

33. The Tribunal determined to refuse the application to adduce the disputed passages of Mr B’s statement into evidence, save for a reference to Dr Talibi’s character in paragraph 7 of the statement.

34. The Tribunal determined to refuse the application to adduce the disputed passages of the police report into evidence, save for two factual passages on p.3 and p.5 of D8.

ANNEX E – 10/05/2024

**Application under Rule 34(1) to admit further evidence**

1. This determination will be handed down in private. However, as this case concerns Dr Talibi's alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.
2. On behalf of the GMC, Mr Jackson made an application pursuant to Rule 34(1) of the Rules to admit a further recording, a written summary of which had been included on p.287 of C1.
3. The recording that was the subject of this application had previously not been admitted into evidence because it had not been disclosed to Dr Talibi's representatives. It was confirmed that Dr Talibi's representatives now had access to the recording.

**Submissions**

On behalf of the GMC

4. Mr Jackson submitted that the recording of Dr Talibi, in which he is alleged to have referred to *'Fucking Jews, the Americans and the British'* were relevant to the paragraph 11 of Allegation, that on one or more occasions Dr Talibi made racist and / or discriminatory statements. Mr Jackson submitted that the recording he was seeking to adduce is similar in character to the recording that is already relied on by the GMC in support of paragraph 11a of the Allegation, which Dr Talibi has admitted. Mr Jackson further submitted that the recording supported Ms X's evidence about Dr Talibi's attitude and was a rebuttal to his defence that the statements he admitted to making arose out of frustration with XXX.

On behalf of Dr Talibi

5. On behalf of Dr Talibi, Mr Peacock relied on his previous submissions about admissibility. He submitted that the GMC had chosen not to include the words used in this recording in the Allegation and therefore it could not be fairly admitted into evidence.

**The Tribunal's Approach**

6. The Tribunal acknowledged that it had a wide discretion to admit evidence. It reminded itself of Rule 34 of the Rules which provides that:

*'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.'*

[The Tribunal's emphasis]

**The Tribunal's Decision**

7. The Tribunal had regard to the written summary of what was allegedly said by Dr Talibi in the recording:

*'This is a 27 second recording, you can hear a male voice (Dr Talibi) talking, the radio can be heard in the background, and it sounds as if Sayeed is in a car. Many of the sites in Syria under the hands of rebels Syrian chemical weapons sites as said by the former commander of the BBC proof the Fucking Jews, the Americans and the British are xxxxxxxxxx(Unclear)'*

8. The Tribunal determined that if this written summary was an accurate reflection of what Dr Talibi had said, such evidence was relevant to paragraph 11 of the Allegation. Further, it was preferable to hear the recording in full to allow the Tribunal to form its own independent view of what was said, its context and tone.

9. The Tribunal determined that the recording could be admitted without unfairness because Dr Talibi would have an opportunity to explain the context and/or content of the recording in due course.

10. As set out previously, the Tribunal was satisfied that Tribunals may (and routinely do) admit evidence that is not direct evidence of a particularised charge but was nonetheless capable of supporting such a charge because it provided background, context or a pattern of behaviour which was capable of demonstrating that a doctor was more or less likely to have acted as alleged. The Tribunal has already decided that such evidence does not become inadmissible solely because it could have been the subject of another charge.

11. The Tribunal determined that it was appropriate to admit the recording into evidence as it was relevant to the Allegation and was capable of supporting the evidence of Ms X in respect of Dr Talibi's attitude and behaviour towards others.

12. Therefore the Tribunal determined to grant the application made by the GMC to adduce a further recording.

#### **ANNEX F – 10/05/2024**

#### **Application under Rule 34(1) to admit further evidence**

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

2. On behalf of the GMC, Mr Jackson made an application pursuant to Rule 34(1) of the Rules to admit a further document and email correspondence between a Civil Disclosure Officer and the GMC relating to the police investigation into Dr Talibi.

#### **Submissions**

##### On behalf of the GMC

3. Mr Jackson submitted that the document the GMC was seeking to adduce was relevant to paragraph 30.c of the Allegation and to the Tribunal's assessment of Dr Talibi's credibility. Mr Jackson submitted that the document showed that Dr Talibi had given a different account of why he was found to have a scientific paper relating to thermite

aluminium on his computer. He submitted that the GMC had a right to cross-examine Dr Talibi on his differing accounts, namely whether he had the information on his computer because it was relevant to his A Level studies (as he had said in a statement submitted to the Tribunal), or to his studies as a doctor (as he apparently told the Prevent officers).

#### On behalf of Dr Talibi

4. On behalf of Dr Talibi, Mr Peacock relied on his previous submissions about admissibility and hearsay. He submitted that the email correspondence and additional document were not relevant and could not be fairly admitted into evidence. He submitted that he was concerned with the anonymity of the police report's author and the lack of information about the Civil Disclosure Officer's own qualifications. Mr Peacock submitted that no evidential weight could be attached to the email correspondence.

#### **The Tribunal's Approach**

5. The Tribunal acknowledged that it had a wide discretion to admit evidence. It reminded itself of Rule 34 of the Rules which provides that:

*'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.'*

[The Tribunal's emphasis]

6. The Tribunal reminded itself of the correct approach to the admission of hearsay evidence set out in Annex C referring to the questions in the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin).

#### **The Tribunal's Decision**

7. The Tribunal had regard to the excerpt from the police report and email from a Civil Disclosure Officer at West Midlands Police.



8. The Tribunal had regard to paragraph 30.c of the Allegation which sets out that Dr Talibi retained possession of material, namely information about thermite aluminium, relevant to making an ignition device.

9. The Tribunal was not persuaded that the evidence the GMC was seeking to adduce was relevant to its consideration of this paragraph of the Allegation. It was not disputed that Dr Talibi had such material on his computer. The Tribunal did not consider that the additional evidence could assist it in its consideration of whether or not Dr Talibi retained the material or whether the material was '*relevant*' to '*making an ignition device*'.

10. The Tribunal also reminded itself that the GMC had accepted that Dr Talibi did not himself have the material for purposes of terrorism.

11. In considering fairness, the Tribunal bore in mind that:

- the police document, headed 62 of 1683 could not be attributed to any named person;
- There was no evidence of what material was available to the anonymous writer of the document;
- There is no evidence of who spoke to Dr Talibi on 7 June 2017 or;
  - the circumstance of their discussion;
  - whether any contemporaneous record was made of the discussion;
  - whether he was cautioned or had access to legal advice;
  - whether Dr Talibi had an opportunity to check the accuracy of the record, if any, made of the discussion.

12. The Tribunal concluded that the email of a Civil Disclosure Officer dated 8 May 2024 stated '*The report would have been compiled by officers sufficiently trained & proficient in their role*' is a tacit admission that they do not know who conducted the discussion or completed the subsequent summary.

13. Accordingly, the Tribunal determined that the inclusion of this material was neither relevant nor fair.

14. Therefore the Tribunal determined to refuse the application made by the GMC to adduce the further evidence.

XXX

#### ANNEX G – 16/04/2025

##### Application to withdraw admissions

1. At the outset of these proceedings, through his counsel, Mr Peacock, Dr Talibi made admissions to paragraphs 11 (a)(i) to (iii) of the Allegation. The Tribunal announced these paragraphs of the Allegation as admitted and found proved as follows:

*'11. Between 1 January 2016 and 27 August 2017:*

*a. when discussing XXX in England and in the presence of others, you made racist and / or discriminatory comments when stating:*

*i. I do not like Afghan culture, I hate Afghan culture;*

*ii. I hate kuffar and white people;*

*iii. I hate this country, I hate Afghan people equally,*

*or words to that effect;'.*

2. On day 23 of the hearing Mr Peacock made an application to withdraw Dr Talibi's admissions to paragraphs 11(a)(i) to (iii) of the Allegation.

3. Mr Peacock referred the Tribunal to Dr Talibi's witness statement (paragraphs 36 to 43) which he submitted gave context to the discussion that had taken place between Dr Talibi and others. Mr Peacock stated that the discussion before the above remarks were made had been in a language which no one other than Dr Talibi could understand.

4. Mr Peacock submitted that the words used in paragraphs 11(a)(i) to (iii) of the Allegation were not automatically racist or discriminatory. Therefore, in the interest of fairness, context was important. He submitted that in cross examination, Dr Talibi had sought to give context to the words used.

5. Mr Peacock referred the Tribunal to the authorities of *GMC v Rahim* [2022] EWHC 137 (Admin), *DPP v Collins* [2006] 1 WLR 2223, *Lambert Simpson v HCPC* [2023] EWHC 481 (Admin) and *PSA v GPhc & Ali* [2021] EWHC 1692 (Admin). He submitted that whether or not the words used were in fact racist or discriminatory depended upon a legal argument which should be decided by the Tribunal.

6. Mr Peacock submitted that the context of the words used was important to a determination of whether they are in fact racist and or discriminatory because the Tribunal had to decide, not whether the comments made were capable of being racist or discriminatory, but whether they are in fact racist or discriminatory.

7. On behalf of the GMC, Mr Jackson, KC, was satisfied that there was no prejudice to the GMC if Dr Talibi withdrew his admissions. He submitted that the interests of justice were better served by completing this hearing within a reasonable time than by resolving this question. For this reason, the GMC raised no objection to the application and acknowledged that it was a matter for the Tribunal exercising its own judgement.

### **Tribunal Decision**

9. The Tribunal was concerned that this application was being made very late in these proceedings by a doctor represented by Counsel and who had not only made admissions at the outset of the proceedings but made further admission during his evidence.

10. In those circumstances the Tribunal was careful to ensure that there was no prejudice to the GMC as there could often be where a late application is made.

11. The Tribunal bore in mind that Mr Jackson was satisfied that he had not identified any such prejudice.

12. The Tribunal accepted that Mr Peacock had outlined the reasons for the application and identified that there was an important matter of law on the meaning of the words used, that should be resolved by the Tribunal.

13. The Tribunal was mindful that it has a duty to ensure fairness to all parties. In this instance, the Tribunal accepted that Dr Talibi or those advising him had reflected on his earlier admission as the case has continued and identified an issue that needed to be decided by the Tribunal. The Tribunal also bore in mind that there has been no objection to the application by the GMC. The Tribunal therefore determined that it was fair and in the interests of justice to allow Dr Talibi to withdraw his admissions.

14. Accordingly, the Tribunal granted Mr Peacock's application and rescinded its earlier decision in regard to paragraph 11 (a)(i) to (iii) of the Allegation, that those paragraphs were admitted and found proved.

### Schedule 1

Date	Description
01/07/2007	Male believed to be Dr Talibi with an unknown female, holding a firearm.
01/07/2007	Male believed to be Dr Talibi holding a firearm and aiming it at the lens of the camera.
01/07/2007	Male believed to be Dr Talibi holding a firearm and pointing it towards his head.
17/07/2007	Male standing in a conservatory of a house holding a rifle with scope.
31/03/2008	Semi-automatic firearms, pistols and magazines laid out on a patio floor in a garden of a house, believed to be a UK premises.
06/08/2009	Semi-automatic weapons, magazines, bullet proof vest, foreign currency and playing cards showing the face of Saddam Hussain, laid out on a piece of cloth on a tiled floor.
07/01/2010	Male in military clothing standing inside a wooden structure holding a rifle and rocket launcher.
21/11/2010	Male believed to be Dr Talibi dressed in a t-shirt and combat webbing, taking a 'selfie' photograph in a bathroom.
16/07/2011	Male believed to be Dr Talibi in the doorway within premises holding an automatic rifle.
10/08/2011	Weapons laid out on a bed which include metal bars, a baseball bat, hammer, meat cleaver, two folding knives, a small sword, an automatic rifle with a clear magazine clip with bullets and a revolver. A balaclava mask and gloves are also displayed.
10/08/2011	Weapons laid out on bed including large firearm, revolver, magazine, metal bar and a folding knife.
26/06/2012	Male believed to be Dr Talibi holding a large weapon.
24/10/2015	Male believed to be Dr Talibi dressed in green balaclava, green neck scarf and black clothing with fists clenched.

November 2015	Various firearms.
20/12/2015	Male believed to be Dr Talibi holding a handgun whilst taking a 'selfie' in a bathroom.
18/04/2016	Male believed to be Dr Talibi holding a semi-automatic weapon an exhibition centre in an unknown location.
12/10/2016	Male in casual clothing holding a rocket launcher. Landscape suggests a foreign location.
14/11/2016	Screenshot of google search for waterboarding.
19/01/2017	Three knives, a meat cleaver, small sword, three metal bars which is endorsed with the words 'who wants to play.'
20/03/2017	Male believed to be Dr Talibi lying in bed with axe resting below jaw.
20/03/2017	Male believed to be Dr Talibi lying in bed with axe held in left hand.
20/03/2017	Male believed to be Dr Talibi lying in bed with axe held in right hand.
01/05/2017	Dr Talibi standing in a kitchen, with 9 kitchen knives, a dagger, an axe, penknife and a pen laid out on the work surface.
Undated	Photograph of two males believed to be dead.
Undated	Aerial photograph entitled RAF Lakenheath, United Kingdom, which appears to be an aerial photograph of RAF Lakenheath, a military air base.
Undated	Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X is touching one of the knives.
Undated	Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X appears to be sharpening the two knives by rubbing them together.
Undated	Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X is holding two of the knives and pushing them into the wooden surface.
Undated	Ms X standing in a kitchen, with thirteen knives and an axe laid out in front of her. Ms X appears to be about to take hold of the axe.
Undated	13 knives, an axe and a pen on a work surface.
Undated	Male believed to Dr Talibi holding a serrated folding knife to the throat of a female.
Undated	Heavy armoured vehicles and weaponry.
Undated	Army bases in Italy, Greece, Turkey and the United Kingdom.
Undated	Aerial images of Syria.
Undated	Non-immigrant visa application for Hani Hanjour (associated with the 11 September 2001 terrorist attacks).

## Record of Determinations – Medical Practitioners Tribunal

Undated	US Department of Justice application to extend / change non-immigrant status for Marwan Alshehhi (associated with the 11 September 2001 terrorist attacks).
Undated	Department of State optional form for Ahmed Alnami (associated with the 11 September 2001 terrorist attacks).
Undated	US customs form for Saeed Alghamdi (associated with the 11 September 2001 terrorist attacks).
Undated	US arrival record for Saeed Alghamdi (associated with the 11 September 2001 terrorist attacks).
Undated	Florida Driver License for Mohammed Atta (associated with the 11 September 2001 terrorist attacks).
Undated	US immigration Admittance for Mohamed Atta (associated with the 11 September 2001 terrorist attacks).
Undated	USA ID for Salem Alhazmi (associated with the 11 September 2001 terrorist attacks).
Undated	USA ID for Khalid Almihdhar (associated with the 11 September 2001 terrorist attacks).
Undated	Department of State Option Form for Abdul Rahman Alghamdi (associated with the 11 September 2001 terrorist attacks).

### Schedule 2

20/08/1998	Article entitled 'Manufacturing of aluminium flake powder from foil scrap by dry ball milling process.'
Undated	Document entitled 'Aluminium Powder Metallurgy.'
19/12/2000	Article entitled 'Fabrication of aluminium flake powder from foil scrap by a wet ball milling process.'

### Schedule 3

<u>Date</u>	<u>Internet activity commenced</u>	<u>Internet activity concluded</u>	<u>Description</u>
19/01/2018	16:30	16:42	Video titled – Bettef footage of Qusary fight with "Hizbollah"

**Schedule 4**

<u>Date</u>	<u>Internet activity commenced</u>	<u>Internet activity concluded</u>	<u>Description</u>
19/01/2018	15:25	15:31	Video titled – Taliban Swati Terrorists Killing Innocent Civilians (or PAK Soldiers-not clear but picked up in translation) in Shaltalu Pakistan (very graphic)