

PUBLIC RECORD

Dates: 24/02/2025 - 14/03/2025
24/11/2025 - 25/11/2025

Doctor: Dr Brendon HAYES

GMC reference number: 4625506

Primary medical qualification: MB BS 1999 University of London

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Consideration of impairment not reached

Summary of outcome

No warning

Tribunal:

Legally Qualified Chair	Mr Nick Flanagan
Lay Tribunal Member:	Ms Hermione McEwen
Registrant Tribunal Member:	Dr Shri Babarao

Tribunal Clerk:	Mx Nate Caruso-Kelly (24/02/25 – 14/03/25) Mr Sewa Singh (24/11/25 – 25/11/25)
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Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Ms Vivienne Tanchel, Counsel, instructed by MDDUS
GMC Representative:	Ms Georgina Goring, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 14/03/2025

Background

1. Dr Hayes qualified in 1999 at the University of London and obtained membership of the Royal College of GPs in 2007. Prior to the events which are the subject of the hearing, Dr Hayes worked as a GP in several practices in Hampshire. In 2016, Dr Hayes joined XXX Surgery ('the Surgery') as a partner with Dr P, who owned the XXX Pharmacy ('the Pharmacy'). In late 2017, Dr P sold the Pharmacy to Mrs and Mr C (Ms B and Mr C within the Allegation). Following Dr P's retirement in September 2018, in February 2019 Dr F joined the Practice as a GP Partner along with Dr Hayes.
2. The allegation that has led to Dr Hayes' hearing can be summarised as that, on one or more occasion, since August 2018, Dr Hayes behaved in a manner that made Ms A uncomfortable in that he; sat in his car and stared at her as she walked through the car park to XXX and when he walked past her in the car park, stared at her in a shop and whilst she was in the Surgery, and further that he looked her body up and down whilst she was in the Surgery. It is also alleged that on one or more occasions between 2019 and 2020, Dr Hayes behaved in a manner that made Ms A uncomfortable, in that when she was walking to work XXX, he would slow his car down and ask if she wanted a lift, despite Ms A being close to XXX and previously having declined a lift.
3. It is also alleged that on 3 June 2019, Dr Hayes approached Ms A whilst she was at work and whilst speaking to her, he stroked her arm with his hand. Further, that on 10 June 2019, Dr Hayes approached Ms A whilst she was at work and in front of her colleagues and/or patients, who he knew, or ought to have known, could hear him, told her that he had just seen Mr E, that he was about to change his medication, how unwell he was, and about his leg ulcers. It is alleged that this was a breach of patient confidentiality. It is further alleged that on or around 11 June 2019, Dr Hayes sent Ms A a card with the word 'sorry' and a teddy bear printed on it, to her workplace.

4. It is further alleged that on a date in or around January 2020, when approached by Ms A about a XXX, Dr Hayes stared up and down at Ms A and said to her, '*do you have a boyfriend?*'. It is alleged that Dr Hayes' conduct towards Ms A, as set out above, was sexually motivated and constituted sexual harassment as defined in Section 26(2) of the Equality Act 2010.

5. It is alleged that on or around 12 June 2019, Dr Hayes said to Ms A, in reference to Mr and Mrs B, '*why do you work for the likes of them?*', and '*you don't know what them people are like*'. It is further alleged that on 9 February 2019, Dr Hayes said to Mrs B, '*I don't deal with your type. You know what I mean.*' It is alleged that this conduct constituted harassment related to race as defined in Section 26(1) of the Equality Act and was racist.

6. It is further alleged that on a date in December 2019, you informed Dr D (Dr D), within earshot of Mrs B, '*not to help her*' and that Dr D did not need to listen to Mrs B. Further, that in September 2019, Dr Hayes scheduled a power cut to the Surgery and Pharmacy building on 9 November 2019 between 1pm and 3pm without notifying Mr or Mrs B, resulting in the Pharmacy fridges being without electricity and risking the degradation of refrigerated medicines. It is alleged that this loss of medication cost the Pharmacy approximately £6,000 and the replacement of medicine cost approximately £6,000. Finally, it is alleged that in January 2022, Dr Hayes reversed his car up to the doors of the Pharmacy causing the automatic doors to open and revved his car engine for approximately 30 seconds, resulting in petrol fumes entering the Pharmacy.

The Outcome of Applications Made during the Facts Stage

7. The Tribunal granted two applications made by the GMC, pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to amend the Allegation. The Tribunal's full decisions on the applications are included at Annex A and Annex C.

8. The Tribunal further granted an application by the GMC, pursuant to Rule 35(4) of the Rules, to anonymise Ms A throughout proceedings. The Tribunal's full decision on the application is included at Annex B.

The Allegation and the Doctor's Response

9. The Allegation made against Dr Hayes is as follows:

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

1. On one or more occasion, since August 2018 you behaved in a manner that made Ms A uncomfortable, in that you:

- a. sat in your car and stared at her as she walked through the car park to work XXX;

To be determined.

- b. stared at her when you walked past her in the car park;

To be determined.

- c. stared at her in a shop;

To be determined.

- d. stared at her whilst she was in the Surgery;

To be determined.

- e. looked her body up and down whilst she was in the Surgery.

To be determined.

2. On one or more occasion between 2019 and 2020 you behaved in a manner that made Ms A uncomfortable, in that when Ms A was walking to work XXX you would slow your car down at the side of her and ask if she wanted a lift, despite Ms A:
 3.
 - a. being close to XXX;

To be determined.

- b. previously declining a lift.

To be determined.

4. On 3 June 2019, you approached Ms A whilst she was at work and whilst speaking to her stroked Ms A's arm with your hand.

To be determined.

5. On 10 June 2019 you approached Ms A whilst she was at work and in front of her colleagues and/or patients, who you knew or ought to have known could hear you, you told her:
 - a. that you had just seen Mr E;

To be determined.

- b. about a change to Mr E's medication;

To be determined.

- c. how unwell Mr E was;

To be determined.

- d. about Mr E's leg ulcers.

To be determined.

- 6. Your actions as set out at paragraph 4 were a breach of patient confidentiality.

To be determined.

- 7. On or around 11 June 2019, you sent Ms A a card with the word 'Sorry' and a teddy bear printed on it, to her workplace.

Admitted and found proved.

- 8. On or around 12 June 2019, you said to Ms A, in reference to Ms B and Mr C:
 - a. 'Why do you work for the likes of them?', or words to that effect;

To be determined.

- b. 'You don't know what them people are like', or word to that effect.

To be determined.

- 9. Your conduct as set out at paragraph 7:

- a. constituted harassment related to race as defined in section 26(1) of the Equality Act 2010, in that you engaged in unwanted conduct related to race, which had the purpose or effect of violating the dignity of Ms A or creating an intimidating, hostile, degrading, humiliating or offensive environment for her;

To be determined.

- b. was racist.

To be determined.

- 10. On a date in or around January 2020, when approached by Ms A about a XXX, you:
 - a. stared up and down at Ms A;

To be determined.

- b. said to Ms A, ‘do you have a boyfriend?’, or words to that effect.

To be determined.

11. Your actions as set out at paragraphs 1, 2 ,3, 6, 9(a) and 9(b) were:

- a. sexually motivated;

To be determined.

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

To be determined.

12. On or around 7 9 February 2019, you said to Ms B, ‘I don’t deal with your type. You know what I mean’, or words to that effect.

Amended under Rule 17(6).

To be determined.

13. Your conduct as set out at paragraph 11:

- a. constituted harassment related to race as defined in section 26(1) of the Equality Act 2010, in that you engaged in unwanted conduct related to race, which had the purpose or effect of violating the dignity of Ms B or creating an intimidating, hostile, degrading, humiliating or offensive environment for her;

To be determined.

- b. was racist.

To be determined.

14. On a date in December 2018, you informed Dr D within earshot of Ms B:

- a. ‘not to help her’, or words to that effect;

To be determined.

- b. that he did not need to listen to Ms B, or words to that effect.

To be determined.

15. ~~You authorised In September 2019 you scheduled~~ a power cut to the Surgery and Pharmacy building on 9 November 2019 between 1.00pm and 3.00pm without notifying Mr C and/or Ms B, resulting in the Pharmacy fridges being without electricity for an unknown period of time resulting in:
- a risk of degradation to the refrigerated medication;

Amended under Rule 17(6).

To be determined.

- ~~of medication costing~~ to the Pharmacy of approximately £6000.00;

Amended under Rule 17(6).

To be determined.

- ~~replacement medication costing the Pharmacy approximately £6000.00.~~

Amended under Rule 17(6).

16. In January 2022, you reversed your car up to the doors of the Pharmacy causing the automatic doors to open and revved your car engine for approximately 30 seconds, resulting in petrol fumes entering the Pharmacy.

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

10. At the outset of these proceedings, through his counsel, Ms Tanchel, Dr Hayes made an admission to paragraph 6 of the Allegation.

Witness Evidence

11. The Tribunal received evidence on behalf of the GMC from the following witnesses by video link:

- Ms A, witness statement dated 23 March 2023;

- Mrs B, witness statement dated 24 November 2023;
 - Mr C, witness statement dated 28 August 2023.
12. Dr Hayes provided his own witness statement dated 6 January 2025 and also gave oral evidence at the hearing. In addition, the Tribunal received oral evidence from the following witnesses on Dr Hayes' behalf:
- Dr F, GP Partner at the Surgery, witness statement dated 6 January 2025, in person;
 - Ms G, Practice Manager at the Surgery, witness statement dated 6 January 2025, by video link;
 - Ms H, receptionist at the Surgery, witness statement dated 6 January 2025, by video link;
 - Ms I, receptionist at the Surgery, witness statement dated 3 January 2025, by video link; and
 - Mr J, Deputy Head of Medicines Management for South East Hampshire CCG, witness statement dated 1 January 2025, by video link.
13. The Tribunal also received evidence on behalf of Dr Hayes in the form of witness statements from the following witnesses who were not called to give oral evidence:
- Dr K, salaried GP at the Surgery, dated 2 January 2025;
 - Ms L, prescribing clerk at the Surgery, dated 3 January 2025;
 - Ms M, patient of the Surgery and the Pharmacy, dated 3 January 2025;
 - Mr N, estate agent, dated 6 January 2025; and
 - Ms O, Chartered Accountant, dated 23 January 2025.

Documentary Evidence

14. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to, photographs of the Pharmacy and Surgery, CCTV stills of the car park dated 31 January 2022, plan of the Pharmacy and Surgery building, emails between Dr Hayes and Dr P dated between 2018 and 2019, emails between Dr Hayes and Mr J dated between 2018 and 2020, letters between the Surgery and the Pharmacy dated between 2017 and 2023, emails between the Surgery and NHS England dated between 2018 and 2020, emails between staff at the Surgery dated between 2018 and 2023, emails and letters between the Surgery and Ms A dated between 2019 and 2023, a County Court Order dated April 2020 and associated documents dated in 2020, Mrs B's police witness statement dated 24 April 2022, Mrs B's police witness statement dated 24 April 2022, Ms A's referral to the GMC dated 1 September 2022, and Mr C's referral to the GMC dated 3 September 2022.

The Tribunal's Approach

15. At this stage, the Tribunal is required to determine whether the facts alleged, or any of them, have been proved.

16. The Tribunal must give separate consideration to the evidence in relation to each individual allegation. Therefore, it does not follow from the fact that the Tribunal finds one allegation proved, or not proved, as the case may be, that the Tribunal will reach the same conclusion in relation to any of the other allegations.

17. In considering the Allegation the Tribunal must be satisfied that each of the elements of the Allegation have been made out before finding the particular allegation proved.

Burden and Standard of Proof

18. The GMC bring the Allegation and the burden of proving the allegations is on the GMC; there is no burden on the doctor to disprove the allegations. The fact that Dr Hayes has chosen to give and call evidence on his own behalf does not mean that he has taken any burden upon himself.

19. The standard of proof is the balance of probabilities – in plain language – Is it more likely than not that the fact alleged is true.

Evidence

20. The Tribunal was obliged to reach its decision on the evidence. It took into account all of the evidence, oral and documentary, which had been received and which was relevant to the facts alleged in the Allegation. Where evidence was not agreed but has been adduced as hearsay, the Tribunal was conscious that questions had not been asked of the witness and no cross-examination had been possible. The Tribunal therefore considered that less weight could be attributed to that witnesses' evidence.

Character

21. The Tribunal has heard positive character evidence regarding Dr Hayes, as well as receiving 16 written testimonials from professional and personal associates attesting to his good character.

22. The Tribunal considered Dr Hayes' positive good character evidence as important and relevant to its considerations in two respects. Although it is not a defence to the allegations, Dr Hayes' good character counts in his favour when assessing the credibility of his evidence and whether it should be accepted. Secondly, his good character and the testimonies provided are relevant in his favour, as it may mean it is less likely that he has acted in the way alleged.

The Sexually motivated allegations

23. Some of the allegations before the Tribunal were of a sexual nature. The Tribunal was mindful not to make any unwarranted assumptions about how an individual should react or

respond in those circumstances. The Tribunal noted that people involved in such incidents may react in a variety of ways. The Tribunal therefore used its own judgment based only on the evidence it heard.

24. The Tribunal adopted the definition of the phrase '*sexually motivated*' from the High Court in the case of *Basson v GMC [2018] EWHC 505 (Admin)*. The guidance indicated that '*a sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship*'. To decide on the balance of probabilities whether conduct was sexually motivated, the Tribunal was therefore required to consider Dr Hayes' state of mind at the time, which was something to be proved through inference or deduction from surrounding evidence, rather than through direct observation. The Tribunal acknowledged the need for proper scrutiny of all the evidence in order to determine whether a sexual motivation could be inferred, including weighing up the extent to which the evidence of the doctor's positive good character might be relevant to the issue of sexual motivation.

Harassment

25. The Tribunal bore in mind that for conduct to amount to harassment, it must be unwanted and be either of a sexual nature, or related to race. It also needs to have had that purpose; namely that the doctor intended the conduct to violate someone's dignity, or create an intimidating, hostile, degrading, humiliating or offensive environment. It is also possible for harassment to occur where it has had that effect; namely where the complainant felt their dignity had been violated, they perceived an intimidating, hostile, degrading, humiliating or offensive environment, even though that was not intended. However, where it is has had that effect, the Tribunal should consider whether it was reasonable for the conduct in question to have had that effect.

26. The Tribunal was also conscious that it is often difficult to raise complaints of a racial nature. The Tribunal noted that people involved in such incidents may react in a variety of ways; and that it was inappropriate to assume that individuals would make complaints immediately. The Tribunal therefore used its own judgment based only on the evidence it read and heard.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1(a) and (b)

28. The Tribunal considered paragraph 1(a) and (b) together, as they relate to behaviour Dr Hayes is alleged to have undertaken in the car park of the Surgery and Pharmacy during the same time period.

29. The Tribunal was assisted by the diagram of the layout of the Surgery, Pharmacy and the shared car park. The diagram was provided by Dr Hayes and accepted as accurate by Ms A. The Tribunal noted that the Surgery and Pharmacy are contained within the same building, with the entrance to the Surgery reception and the entrance to the shop area of the Pharmacy facing onto a small car park. The Tribunal was also assisted by stills from CCTV footage showing the car park. The Tribunal took this agreed diagram into account when considering paragraph 1(a) and (b) of the Allegation.

30. The Tribunal first considered Ms A's witness statement which was prepared for these proceedings. In her statement, Ms A stated,

'As soon as I started working [XXX], I'd catch Dr Hayes staring at me when I was entering and leaving [XXX] at the beginning and end of the day. The Pharmacy and Surgery both opened at 8.00am to 8:30am and Dr Hayes would visibly sit in his car and ogle me as I walked through the car park. Dr Hayes wasn't discreet and would physically turn his head to look at me. I would see him, then immediately look down and get to [XXX] and out of his sight as quickly as I could. I have to walk through the car park to get to [XXX] so couldn't avoid him.

On occasions, Dr Hayes would walk past me in the car park and stare at me, so look directly at me for more than 10 seconds which scared me and I'd do anything to get away from him. I found this demeanour extremely upsetting and it made me scared to come to work.'

31. The Tribunal then considered Ms A's oral evidence. During cross-examination, Ms A stated,

'Q: Are you suggesting that Dr Hayes would hear you and know it was you coming in and out of the Surgery when you were allowed to do so?

A: No that's not what I'm saying, what I am saying is the doors can be quite loud you can hear people walking in and out. I'm not saying he can hear it's me. But yeah doors are being opened all the time, just saying he could probably hear the doors being closed from [XXX] you can hear that locked door being open and closed all the time.

...

Q: Were there other cars in the car park?

A: It was different every time there was never a specific way I would say his car was parked.

Q: If his car was parked where the red car [in the CCTV still] is he wouldn't be able to see you?

A: *He could see me through the rear view mirror.*

Q: *How would you know if he was looking at you through his rear view mirror?*

A: *...the car park is quite small, [I] would be able to see where his car is and see his eyes looking at me through the rear view mirror.*

Q: *Did you see what he was looking at?*

A: *He would be looking at me.*

...

Q: *When there were other cars parked there like in this picture, how could you see where Dr Hayes was looking from the [XXX] door?*

A: *There are some large cars blocking the view but as the angle would go as I walked through to get to the [XXX] door if you turned your head you could see to the end of the wall and the car park. I know that large vehicles could be in the way but that's not always the case.'*

32. The Tribunal noted that Ms A, when cross-examined on her account of Dr Hayes having stared at her in the car park, had stated that Dr Hayes would know when she was leaving or entering the building and would be in the car park during those times. The Tribunal noted the plan of the building and the car park, in particular, it noted that the room which Ms A and Dr Hayes agreed was his usual consulting room was at the back of the building on the opposite side to the car park. The Tribunal noted that this room did not have a window which faced the car park or from which it might be possible to see people coming and going from the Surgery or Pharmacy. Furthermore, the Tribunal noted that there were several closed doors between Dr Hayes' room and the car park.

33. The Tribunal further took into account that during this period Dr Hayes was working as a GP, carrying out multiple appointments with patients every morning and afternoon. As such, the Tribunal accepted Dr Hayes' evidence that he would not have been able to leave his room repeatedly to try and catch sight of Ms A, nor could he regularly leave his room at the same time for lunch.

34. The Tribunal found that Ms A's statement that Dr Hayes was aware of her movements throughout the building and timed his leaving and arriving to coincide with her to be implausible. The Tribunal found that the location of Dr Hayes' consulting room meant that he would not have been able to see or hear the comings and goings of [XXX] staff, nor would he have been able to leave his room on a regular basis to look into the car park. The Tribunal was concerned that Ms A had embellished her account of having been stared at in the car park, in order to imply that Dr Hayes was deliberately seeking her out to stare at and had not merely come across her in the car park by coincidence.

35. The Tribunal then considered Ms A's assertion, given in oral evidence and not contained within her witness statement, that if Dr Hayes was parked facing the wall surrounding the car park, he would make efforts to look at her in his rear-view mirror. The Tribunal was mindful that the car park is not large, however it did not consider that it was possible to know whether or not a person was looking at you in their rear-view mirror in such a way that you felt it was deliberate, as Ms A asserted. Furthermore, the Tribunal was concerned that Ms A had exaggerated her account of being stared at by insisting that it was possible for Dr Hayes to have stared at her no matter where he was parked or in what position – even if other cars were in the way.

36. Having considered the account which Ms A gave to the Tribunal; the Tribunal then considered the accounts which Ms A has previously provided of Dr Hayes' behaviour in the car park. The Tribunal has been provided with numerous letters written by Ms A to the Surgery between August 2018 and August 2022, as well as Ms A's referral to the GMC, made on 1 September 2022. The Tribunal noted in particular a letter which Ms A wrote to the Surgery on 5 July 2022, in which she stated:

'Stop sending your staff members into the XXX with these letters. They are incessant and utterly unnecessary. I am not sure how much more explicit I can be about your and Dr Hayes behaviour. You continuously are harassing [XXX] workers and interfering and meddling with the [XXX] team, and your letters (and communication to 3rd parties) relating to matters to [XXX]- are a false audit trail based on lies You have been told time and time again by myself and management colleagues- your letters are distressing and traumatising and still feel you have the right to continue your conduct- despite being told to stop as you were on 27th June 2022.'

You have made me seriously unwell, abusing your position as a GP and have driven out multiple members of my team since you took over the GP practice as you have made life a living hell for me working in [XXX], as you did them, with your hostile and upsetting actions. Patients are suffering due to your behaviour and actions towards the [XXX] team. Leave me and my colleagues alone with your constant letters and stop targeting me and my workplace You know full well what you are doing by covering up your actions with letters.'

37. The Tribunal noted that this letter, drafted and sent by Ms A two months before her complaint to the GMC of sexual harassment, does not include any mention that Dr Hayes had targeted her by staring at her and making her feel uncomfortable. The Tribunal found that the grievance being raised in this letter related to the ongoing correspondence between the Pharmacy and Surgery and the distress caused. The Tribunal found that the tone of the letter was explicit in setting out Ms A's complaint and it was clear that she was confident to raise issues with the Surgery.

38. The Tribunal noted that this letter followed another sent by Ms A to the Surgery on 29 June 2022. The Tribunal again noted that Ms A does not mention sexual harassment or repeated staring by Dr Hayes. The Tribunal noted in particular that Ms A stated,

'I also dispute the point in your letter regarding your protocol. This is your protocol, deviating from a productive and efficient working relationship under Dr [P's] ownership, which based on our extensive experience [XXX] and significant patient feedback clearly does not work and has jeopardised patient care!'

39. It was accepted by Ms A that she had begun work at XXX, and this was her first role as a XXX. Further, it was stated repeatedly by Mr and Mrs B that they had 20 years of experience in community pharmacy between them. The Tribunal therefore considered that when Ms A referred to XXX, she was in reality referring to the experience of Mr and Mrs B. The Tribunal found that this was an example of Ms A taking on the grievances of Mr and Mrs B, who were engaged in ongoing business disputes with the Surgery, and by 2020, were subject to an injunction sought by the Surgery.

40. The Tribunal, as noted above, has been provided with large volumes of letters exchanged between the Surgery and the Pharmacy between 2018 and 2023. XXX. The Tribunal observed that in none of these letters, including the letter sent by Ms A two months before her complaint to the GMC of sexual harassment, has an account of Dr Hayes staring at Ms A been provided. The Tribunal was mindful that individuals respond differently to such conduct, but as there had been considerable open direct correspondence, Ms A's failure to raise the matter earlier undermined her credibility.

41. The Tribunal also took into account the inconsistencies in Ms A's oral evidence, including in particular the repeated ways in which Ms A had embellished her account of Dr Hayes' actions, as well as the contemporaneous letters which contain robust accounts of the behaviour of the Surgery but make no mention of the sexualised or harassing behaviour that Ms A alleges here. The Tribunal was further mindful that Ms A had adopted the dispute between the Pharmacy and the Surgery as a personal matter, writing extensively about the grievances of Mr and Mrs B in their business dispute. The Tribunal was not satisfied that it could rely on Ms A's evidence as to this Allegation, and it did not find that she had given a credible account.

42. The Tribunal also considered Dr Hayes' oral evidence and witness statement regarding Ms A's staring allegation:

'I spend very little time in the [XXX] car park. I have [XXX] and it is usually chaotic trying to get to work, so I am often rushed getting in and, therefore, arrive and enter the Practice immediately. If I had time, the only occasion when I would momentarily stay in the car would be to listen to the end of Radio 4, when it reaches the crucial point of a matter that I had been engaged in during my journey. I would not be staring at anyone during this time.'

43. The Tribunal found Dr Hayes' evidence consistent and reliable.
44. The Tribunal found that the actions were unlikely to have occurred in the manner alleged by Ms A. Whilst there may have been instances when Dr Hayes looked at Ms A, these were inadvertent and did not amount to staring, as alleged.
45. The Tribunal therefore found paragraph 1(a) and (b) not proved.

Paragraph 1 (c)

46. The Tribunal first considered Ms A's account in her witness statement. In her statement, Ms A stated,

'The [XXX] is in a [XXX] village and sometimes on my lunchbreak, [XXX], I'd go into the local newsagent or shop and on occasion, Dr Hayes would happen to end up in there staring at me. It felt like Dr Hayes knew when my breaks were as he would be coming out of the Surgery at the same time I'd be leaving [XXX] for my break. During summer 2019, I asked the [Ms B and Mr C] to change my break times so they were staggered which they did just to avoid bumping into Dr Hayes because I could not handle the staring.'

47. The Tribunal also considered Ms A's oral evidence, in which she stated,

A: It's [XXX] a small convenience store

Q: Closest shop to [XXX]?

A: Yes

Q: There aren't many shops overall?

A: Yeah it's a very small village

...

Q: Closest to the Surgery, so it wouldn't be unusual for anybody working to buy food and drink?

A: No that wouldn't be unusual but breaks are at the same time every day, he would only see a few times and he would know.

Q: You wouldn't know what Dr Hayes' movements were?

A: No I wouldn't know. Didn't pay that close attention. From [XXX] can see in the car park when somebody coming or leaving but I never took that much interest.'

48. The Tribunal also considered Dr Hayes' statement, in which he stated,

'Over the past 6 years it is evident that we would have at least made glancing eye contact in the car park, a local shop or in [XXX] at some point. I cannot account for what Ms A may have been thinking at any occasion, but I would certainly not have stared at Ms A or looked her up and down.'

49. In his oral evidence, Dr Hayes accepted, as did Ms A, that there was only one shop in the village, and he would regularly go there on his lunch breaks to buy a sandwich. Dr Hayes accepted, consistent with his witness statement, that it is possible he was in the shop at the same time as Ms A and made eye contact with her, but he denied ever having deliberately stared at her.

50. The Tribunal, as set out in relation to paragraph 1(a) and (b), did not accept Ms A's evidence that Dr Hayes was able to see when she was going for lunch, nor that they had overlapping lunchtimes.

51. The Tribunal further considered that this repeated staring was alleged to have taken place in a public place where Dr Hayes was likely to be recognised. It was mindful that XXX is a small village and Dr Hayes, as a GP Partner, was likely be easily recognisable to others in the shop. The Tribunal found it was unlikely that Dr Hayes, a doctor of good character, would engage in such repeated behaviour in a public place where he may be recognised.

52. Finally, the Tribunal took into account its finding above that by the time Ms A made her complaint of sexual harassment to the GMC in September 2022, she had not previously mentioned any repeated staring in the village shop, despite writing voluminous complaint letters over the four-year period in which this behaviour is alleged to have occurred.

53. The Tribunal therefore concluded that while Dr Hayes and Ms A may have been in the shop at the same time at some point over the relevant period, it was not satisfied that there was evidence that Dr Hayes had deliberately stared at Ms A in a sexualised manner. The Tribunal took into account that their lunch breaks did not coincide, Dr Hayes would not have known when Ms A was on lunch, and Ms A has never previously raised this matter in her extensive correspondence with the Surgery. The Tribunal therefore found that it was unlikely that Dr Hayes had stared at Ms A in the village shop, at any time since August 2018.

54. The Tribunal therefore found paragraph 1 (c) not proved.

Paragraph 1(d) and (e)

55. The Tribunal considered paragraph 1(d) and (e) together as they related to behaviour alleged to have occurred in the Surgery during the same time period.

56. The Tribunal first considered Ms A's witness statement, in which she stated,

'I was conscious to try and avoid having any eye contact with him. I can't say exactly how many times I have caught him staring at me in this way but at least 40 times since I have worked at [XXX]. His staring made me feel intimidated and I felt like he wanted to scare me. I felt targeted as the youngest and newest member of the [XXX] team and never saw Dr Hayes staring or ogling anyone else at [XXX]. Initially I felt that Dr Hayes' staring and ogling me was sexually motivated because I couldn't think of any other reason why Dr Hayes would be looking at me in such a way. Sometimes people stare at me as I have a [XXX] but I was at work, in my work uniform, and didn't want to be looked at in that way by anyone let alone a doctor!'

'If I had cause to be in the Surgery dealing with [XXX], Dr Hayes would latch at me so stare at me and also look my body fully up and down. I always made a point of avoiding eye contact and getting away from him as quickly as I could but if I did happen to catch his eye his stare was fixated on me. Dr Hayes made me feel scared and anxious. He is 6 feet ('ft') 5 inches tall and I am [XXX]. He is imposing and as a female, I felt unsettled, intimidated and that he was preying on me. No other doctor in the practice behaved in this way, just Dr Hayes, I therefore wanted to avoid him as much as possible. I recall when I saw him walk my way, I would turn around and walk back the other way just to avoid him.'

57. The Tribunal further took into account Ms A's oral evidence when cross-examined on this paragraph of her witness statement,

Q: 'How many times did Dr Hayes stare at you at the reception desk?

A: I can recollect twice from memory from reception that it would happen then, going in and out of the Surgery sometimes he wouldn't be there.

Q: Why does it not say in your witness statement on two occasions?

A: I'm not quite sure if I'm honest to you that's a detail I have missed out so I do apologise on that account for leaving that detail out.

Q: Why do you assert that Dr Hayes is 6' 5?

A: My brother is 6'4 I think he is taller than him.

Q: Why not say that?

A: You asked me how I know that's how I've mentioned it to add my brother into the statement. I'm allowed to make assumptions on his height. Could say he's 6'3 or 6'5.

Q: Do you understand you need to tell the truth?

A: Yes

Q: *Why were you speculating?*

A: *With all due respect I don't think we should be pondering on the fact I said he is 6'5. So much of this statement to go through. Perhaps I shouldn't have put this in at all probably one of the least important things I had to put in right now. Going on about his height doesn't really help at all.'*

58. The Tribunal assessed Ms A's account, that she had been '*ogled*' by Dr Hayes in the Surgery on two occasions. The Tribunal noted that Ms A was not able to recall any details regarding these events, nor had she set out the specific number of occasions in her witness statement.

59. The Tribunal further considered Ms A's reasoning for being in the Surgery, that she was '*dealing with*' a XXX. The Tribunal had been provided with evidence from Dr F, Ms H, Ms G and Dr Hayes which set out that between 2018 and 2020, Mrs B would come into the Surgery regularly asking for prescriptions to be signed. The Tribunal noted concerns had been put to Mr and Mrs B on multiple occasions and in particular in letters dated 22 and 30 January 2020,

'We'd also like to take this opportunity to highlight an additional part of the protocol. If you should wish to speak to one of the doctors please either phone through to reception (who will gladly put you through if they are free to talk), email or email to book a time which is mutually convenient. We would ask that the 'knock on the door and walk in' approach is stopped.

*...
We have endeavoured to set out clear communication pathways depending on the clinical safety/time sensitivity of a situation and, as stated in the protocol, you are welcome to phone reception who will put you through to an available clinician, if possible, and we will deal with it as soon as we are able. Regardless of whether you feel an issue can be discussed in '60-120 seconds' (although we would contest that this has ever been possible) we would ask that you respect the protocol and do not enter our rooms without prior arrangement. ... Neither of us has ever had a pharmacist enter our consulting rooms unannounced before coming to [XXX] and the GP colleagues we have spoken to were amazed when we told them that you did so. Regardless of whether you agree with it or not, or whether you believe it to be 'normal' or not, we will not continue to allow you to walk into our consulting rooms unannounced, during or after surgery.'*

60. The Tribunal further noted that a subsequent paragraph of the Allegation sets out a time in January 2020 when Ms A went to Dr Hayes' consulting room with an XXX. The Tribunal, whilst mindful of different individual reactions to such conduct, found it was unlikely that Ms A would have gone to Dr Hayes' room of her own volition in January 2020,

had she been subject to the '*ogling*' and sexualised staring which she alleges Dr Hayes had subjected her to throughout 2018 and 2019 in the Surgery and the surrounding area.

61. The Tribunal also took into account that, as Ms A accepted, there would have been other members of staff in the reception area of the Surgery when these incidents allegedly occurred, as well as patients in the waiting area. The Tribunal had evidence from the Practice Manager of the Surgery and two receptionists, none of whom had witnessed Dr Hayes behaving improperly towards Ms A. The Tribunal was conscious of Dr Hayes' good character and found it was unlikely that he would engage in such deliberate staring in the presence of others, especially his colleagues and patients.

62. The Tribunal therefore concluded that it was unlikely that Ms A had gone into the Surgery to '*deal with [XXX]*' as there was evidence that Mr and Mrs B mainly dealt with the Surgery during this period. Further, the Tribunal found that Ms A's account of the incident was inconsistent; her witness statement set out 40 or more occasions, but in her oral evidence this reduced to only two occasions. Finally, the Tribunal was again concerned that Ms A had not mentioned these incidents in any of the substantial correspondence between the Surgery and the Pharmacy, before making her complaint of sexual harassment to the GMC. The Tribunal therefore found that it was unlikely that Dr Hayes had stared at Ms A or looked her body up and down whilst she was in the Surgery.

63. The Tribunal therefore found paragraph 1(d) and (e) not proved.

Paragraph 2(a)

64. The Tribunal first had regard to Ms A's evidence of being offered lifts by Dr Hayes on repeated occasions, despite being close to XXX and having refused an earlier offer. In her witness statement, Ms A stated,

'Around early 2019, I walked along [XXX] Road, which is the main road through the village to [XXX], to get to work between 8:10am and 8:20am. Dr Hayes would slow his car down at the side of me, wind down his window asking me if I'd like a lift. I would say, 'No. I'm fine walking thank you.' Dr Hayes wouldn't respond to me in any way and would speed off in his car. At the point Dr Hayes offered me a lift, I would be around two to three minutes away from work. I lived with my [XXX] at the time and began to ask my [XXX] to take me to work so I could avoid Dr Hayes because of Dr Hayes antics. On the days my [XXX] couldn't take me to work, I went another route through a wooded area through mud and nettles, just to avoid going down the main road and possibly seeing Dr Hayes. This didn't happen every day but once every few weeks. Once, I fell over and bruised my knees because of this detour and wish I wasn't being made to feel this way. It was as if he would offer me a lift and then a few weeks later, try again. I think Dr Hayes offered me a lift three times in total. I had no idea why he would want to offer me a lift as [XXX] was so close and I was freaked out when he started to do this. I felt pursued. No other staff members were being asked, just me, a [XXX] old employee.'

65. The Tribunal then considered Dr Hayes' statement, in which he accepted that he did offer Ms A a lift on one occasion in Spring 2019. In his statement, Dr Hayes stated,

'It is admitted as a matter of fact that I offered Ms A a lift on one occasion. This must have been before June 2019.

At the time of offering the lift I was driving to work and I had approached a roundabout. I was driving north-west along [XXX] Road, slowing down alongside the Shell garage forecourt before the roundabout when I saw her walking across the grass verge towards the car. This point is 0.7 miles from the [XXX] car park according to the mileometer in my car.'

66. The Tribunal considered whether the offer of a lift had made Ms A uncomfortable. The Tribunal noted that Ms A has described in her witness statement feeling '*pursued*' and even changing her route to work to avoid Dr Hayes, as well as getting lifts from her XXX. The Tribunal again noted that there had not been a complaint made regarding this conduct before the referral to the GMC in September 2022, despite Ms A stating in her witness statement that she had told her employers Mr and Mrs B about it and her family. The Tribunal accepted Ms A's evidence that the offering of a lift had made her feel uncomfortable, but the Tribunal did not consider it reasonable that a single offer of a lift could be construed in a harassing manner.

67. The Tribunal therefore went on to consider whether Dr Hayes had offered Ms A a lift despite her being close to the XXX.

68. The Tribunal was provided with a screenshot of a Google maps route which Ms A agreed started at the place where she could recall Dr Hayes offering her a lift and where Dr Hayes accepted, he had offered Ms A a lift and ended at [XXX]. It was significant that this detail was not volunteered by Ms A before cross-examination. The Tribunal noted that the screenshot showed the distance was 0.8 miles, a three-minute drive, or an 18-minute walk. The Tribunal took into account Ms A's oral evidence given under cross-examination that she was not aware of the exact distances and thought it would only take two or three minutes to walk to XXX. However, when provided with the Google Maps screenshot, Ms A then stated it was downhill and would have taken five to seven minutes. The Tribunal did not find the variation in Ms A's evidence to be credible, taking into account the map which estimated an 18-minute walk.

69. The Tribunal therefore did not find that Dr Hayes had offered Ms A lifts despite being close to XXX, taking into account the map which clearly showed XXX was 0.8 miles away and it would have taken Ms A around 18 minutes to walk that distance.

70. The Tribunal therefore found paragraph 2(a) not proved.

Paragraph 2(b)

71. Having found that Dr Hayes had offered Ms A a lift on one occasion and this had made her feel uncomfortable, the Tribunal went on to consider whether this lift was offered despite Ms A having previously declined a lift.

72. The Tribunal took into account the voluminous letters written by Ms A and Mr and Mrs B to the Surgery between 2019 and 2020. In particular the Tribunal noted that by Spring 2019, when Dr Hayes accepts that he offered Ms A a lift once before June 2019, the relationship between the Surgery and Pharmacy had begun to break down. The Tribunal found that it was unlikely that if Ms A had repeatedly been offered lifts by Dr Hayes during this period that it would not be mentioned or particularised by Mr and Mrs B or by Ms A herself in a letter to the Surgery. The Tribunal further noted that Ms A had stated she changed her walking route to work – on one occasion injuring herself – and got family members to drive her to work which would have been a significant inconvenience that no doubt would have resulted in a complaint to the Surgery.

73. The Tribunal considered that, as found above, Dr Hayes had offered Ms A a lift on one occasion in the first half of 2019, and it was concerned that Ms A had embellished this encounter to support her complaint of sexual harassment. Significantly, the Tribunal noted in particular that Ms A was not able to say where she was when the other lifts were offered, aside from the agreed occasion when Dr Hayes accepted he had offered a lift.

74. The Tribunal therefore concluded that while a lift had been offered on one occasion in the first half of 2019, there was no evidence that this had occurred despite a previous lift having been declined. The Tribunal took into account the contemporaneous letters which do not mention repeated offers of a lift, as well as Ms A's vagueness as to the location and dates of the alleged offers and her involvement, by mid-2019, in the dispute between Dr Hayes and Mr and Mrs B.

75. The Tribunal therefore found paragraph 2(b) not proved.

Paragraph 3

76. The Tribunal noted that Dr Hayes accepted that he had a conversation with Ms A on 3 June 2019 at the Surgery. He stated,

'Mr E had asked me to talk to Ms A about his medication, having told me that he was related to her. I thought that she was his [XXX] but may have misheard him say [XXX]. I would [otherwise] have had no way of knowing [they were related].'

I remember telling Ms A that her [XXX] wasn't very well, that I had just been to see him and that we needed to alter his medication. I may have mentioned that he had an infection for which he needed antibiotics.

I was stood relatively close to Ms A but at a respectful distance, definitely further apart than 12 inches, which I understand is alleged. At that distance I would not have felt comfortable myself and it would have been hard to conduct a normal conversation. There was a doorframe in the vicinity but I was not standing against it. I was closer to the toilet door facing consulting room 4 and she was opposite me. I recall that the consulting room door was open but I did not enter the room. Ms A was between me and the consulting room door and there would have been no sense in entering the room where I think someone may have been working. This was at a quiet time of day when there were no patients coming and going – after I had done a lunchtime visit.

I am not the type of person who would console someone by touching their arm. I am quite stand-offish in those situations.'

77. The Tribunal further noted that Ms A also recollects this conversation in a similar way,

'On 3 June 2019, Mrs B and I were in consultation room four, which is a room within the Surgery they rented where they prepared blister packs for elderly and vulnerable patients. Mrs B was standing behind me in the room when Dr Hayes suddenly appeared and leant on the door frame of the room, which was narrow, and meant I couldn't leave. Dr Hayes was less than a foot away from me at this point. Dr Hayes started talking to me about my XXX, Mr [E], who was a patient of the Surgery and wasn't well at the time, but it was actually [Mr E], and this upset me as I didn't know about his health issues and I wasn't involved in his care or medication but then to hear that he was very unwell and soon to pass away whilst I'm at work was hard to hear. Dr Hayes totally blanked Mrs B and said something to me like, 'I know [Mr E] isn't very well' and as he was saying this he stroked my left upper arm up and down with the palm of his hand once. This lasted for a few seconds and I flinched and moved back, disgusted. ... Mrs B followed me back to the Pharmacy and asked me if I was OK. I told her about Dr Hayes conversation and him touching me made me feel very uncomfortable.'

78. The Tribunal therefore considered that the real matter of contention was whether Dr Hayes had reached out and touched Ms A's arm during the conversation. The Tribunal noted that Ms A had stated that Mrs B was in the room behind her during the entire conversation, and although she had been clear that Dr Hayes did not speak to her, the Tribunal found that Mrs B would have been able to hear the conversation and see the interaction. Significantly, the Tribunal noted that Ms A stated that she talked to Mrs B about the touching immediately after the interaction upon returning to the Pharmacy.

79. The Tribunal could not find any mention of this incident in Mrs B's witness statement. The Tribunal further considered the contemporaneous letters sent between the Pharmacy and the Surgery, in particular letters sent around June 2019 by Ms A, and found no mention of inappropriate touching by Dr Hayes, despite multiple complaints and issues being raised.

80. Finally, the Tribunal considered that Dr Hayes' assertion that he does not touch people to comfort them and that he can be standoffish is consistent with other evidence of his character. For example, Ms G, the Practice manager, described Dr Hayes,

'Dr Hayes is neither an introvert nor an extrovert. He would never bound into a room and say hello to everyone and he can be quite shy with new people. It can take a while to get to know him, but when you get to know him he honestly couldn't be a friendlier man.'

81. The Tribunal noted the previous inconsistencies identified with Ms A's evidence. In this instance, there was no evidence to corroborate Ms A's account that Dr Hayes had touched her arm on this date. The Tribunal noted in particular that Mrs B did not recall the conversation in her evidence, it was not mentioned in contemporaneous letters of complaint to the Surgery, and it would have been out of character for Dr Hayes, as well as taking into account Dr Hayes' previous good character. The Tribunal therefore found it was not likely that Dr Hayes had touched Ms A on this occasion.

82. The Tribunal therefore found paragraph 3 not proved.

Paragraph 4 (a)

83. The Tribunal had regard to Ms A's evidence regarding the events on the 10 June 2019, as well as the detail that was provided.

84. The Tribunal then considered Dr Hayes' account of the conversation he had with Ms A on 10 June 2019, noting some agreement regarding the events. Dr Hayes stated,

'Allegation 4(a) is denied. I did not say this as I had not just been to see him. I had seen him 1 week earlier when I first spoke to her. I exhibit Mr E's medical record showing that I did not see Mr E on 10 June 2019.

*...
I had issued a prescription on 3 June and on 10 June I needed to do a repeat. When I had seen Mr E at his home a week earlier, he said that Ms A would be the most appropriate person to speak with. Having not been told that I couldn't speak with Ms A on 3 June, when it came to the 10 June, I went to [XXX's] door that interconnects with [XXX] and went to knock on the door, but I fumbled my phone and it hit the door. My intention was to speak with whomever opened the door. Ms A opened the door and, given Mr E's suggestion that I could speak with Ms A, I began to ask when the next NOMAD was due for delivery. This was not a complicated matter and Ms A could have assisted.*

Ms A was about to respond to me when Mr C stepped between us and said that I could not speak to his staff without his permission and slammed the door on me.'

85. The Tribunal considered Dr Hayes' account and found that while Dr Hayes had not sought out Ms A specifically to talk to, after she answered the door, he did speak to her about the matter, and it therefore found that Dr Hayes had approached Ms A whilst she was at work.

86. The Tribunal next considered whether or not the conversation took place in front of Ms A's colleagues. The Tribunal found that it was evident from Dr Hayes' account that Mr C had been present, as he intervened in the conversation. The Tribunal noted that Ms A had stated that Mrs B was present, with Mrs B being able to give an account of the conversation to the Tribunal. The Tribunal therefore found that the conversation did take place in front of Ms A's colleagues.

87. The Tribunal next considered whether or not any patients were present who Dr Hayes knew, or ought to have known, could hear him speaking to Ms A. The Tribunal noted that it was accepted by Dr Hayes that he was standing at the interconnecting door between the Surgery and the Pharmacy. The Tribunal considered a letter which Dr Hayes wrote to XXX on 28 June 2019, around two weeks after this incident. He wrote,

'With respect to discussing patients within earshot of the waiting room, I agree with you. In this case because I did not use the patients name and had, as it turned out inaccurately, referred to the patient on the basis of what I understood his relationship to Ms A to be, I don't think there can have been any breach of confidentiality. I agree that we all need to be careful about mentioning patients' names in the waiting area.'

88. In response to this letter, on 7 July 2019 Mrs B wrote to Dr Hayes and stated,

'Mr C felt you were potentially breaching Pharmacy Information Governance Regulations pertaining to the pharmacy and acted what he felt was in the best interest of the pharmacy Ms A was actually speaking to another friend of the family in the pharmacy at the time, when she answered the door, and Mr C felt it posed a significant risk to our IG compliance.'

89. The Tribunal was mindful that Dr Hayes and Mrs B had differing accounts of who was in [XXX] at that time, however, it was clear from both accounts that Dr Hayes at least was aware that patients may have been in [XXX] which was a very small space. Moreover, considering the plan of the area, it was unlikely that Dr Hayes could have seen any customers waiting in [XXX]. The Tribunal therefore found that Dr Hayes knew or ought to have known that patients could hear his conversation with Ms A.

90. The Tribunal then considered whether Dr Hayes told Ms A that he had just seen Mr E. The Tribunal was provided with a screenshot of Mr E's medical records. The record showed that Dr Hayes visited Mr E at home on 3 June 2019 and not on 10 June. The Tribunal further noted that Ms A has made an allegation against Dr Hayes relating to a conversation about Mr E on 3 June 2019. Contrary to Ms A's recollection, the Tribunal found that it was therefore

highly unlikely that Dr Hayes had visited Mr E on 10 June 2019, having not made an entry in the medical record and having visited Mr E just a week earlier.

91. The Tribunal therefore found paragraph 4(a) not proved.

Paragraph 4(b)

92. Having found that Dr Hayes had approached Ms A whilst at work and in front of her colleagues and/or patients, who he knew or ought to have known could hear him and discussed Mr E, the Tribunal went on to determine whether Dr Hayes had discussed with Ms A a change to Mr E's medication.

93. In Dr Hayes' account of the conversation, it was clear that Dr Hayes accepted he went to XXX to ask about Mr E's NOMAD tray, which the Tribunal understood to mean a tray of a week or months' worth of medication organised into daily doses. The Tribunal noted that in his oral evidence, Dr Hayes stated,

'I just asked when the next NOMAD was due so I could prescribe an interim number of tablets'.

94. The Tribunal took into account Ms A's statement, in which she stated,

'Dr Hayes then immediately started to talk about Mr E to me again and started "I've just seen Mr E"-which caught my attention-and this time about change in a dose of drug, Bisoprolol I think, less than a week after I'd told him I wasn't Mr E's next of kin.'

95. The Tribunal further noted that Dr Hayes agreed that he approached Ms A about changing Mr E's Bisoprolol dosage on an interim basis until his next NOMAD tray was due. The Tribunal considered that it would have been natural for Dr Hayes to explain why he needed information about the next NOMAD for Mr E, as he stated in his evidence this was his usual practice. It was therefore more likely than not that he did mention the change in dose of Bisoprolol to Ms A on this occasion. The Tribunal found that this discussion amounted to Dr Hayes telling Ms A about a change to Mr E's medication. This occurred when Ms A's colleagues and a patient were nearby.

96. The Tribunal therefore found paragraph 4(b) proved.

Paragraph 4 (c)

97. The Tribunal bore in mind that it has found that Dr Hayes visited Mr E on 3 June 2019 and spoke to Ms A afterwards about Mr E's condition. Dr Hayes accepted that he may have made such a comment on 3 June 2019 to Ms A, when they were in a private area in the Surgery. The Tribunal considered the letters exchanged between the Surgery and XXX about this incident, noting that there was no mention of Dr Hayes having spoken about Mr E's overall health on 10 June. On balance, the Tribunal considered that it was more likely that

the comment was made by Dr Hayes on 3 June 2019, following his appointment with Mr E and during his initial conversation with Ms A. The Tribunal was not satisfied on the evidence that the events had occurred as alleged.

98. The Tribunal therefore found paragraph 4(c) not proved.

Paragraph 4 (d)

99. The Tribunal again considered the letters exchanged about this incident between the Surgery and XXX in the weeks afterwards and found no mention of Mr E's leg ulcers having been discussed. The Tribunal further noted that while Ms A mentioned leg ulcers in her statement, neither Mrs nor Mr C were able to recall leg ulcers in their respective statements. The Tribunal therefore found that there was limited evidence that leg ulcers had been mentioned on this occasion, and it was more likely that they had been mentioned on 3 June 2019 when Dr Hayes accepts, he discussed Mr E's overall condition, rather than a change to his medication as was discussed on 10 June 2019.

100. The Tribunal therefore found paragraph 4(d) not proved.

Paragraph 5

101. Having found paragraph 4(b) proved, the Tribunal went on to consider whether this was a breach of patient confidentiality. The Tribunal was mindful that there was a dispute between Dr Hayes and Ms A, Mr C and Mrs B as to whether or not Dr Hayes used Mr E's name during this conversation or whether he only referred to him as Mr E.

102. The Tribunal was mindful of its findings regarding the general reliability of Ms A's evidence, preferring the account provided by Dr Hayes regarding the events. The Tribunal noted that in these proceedings Dr Hayes was a person of good character and respecting patient confidentiality was part of his daily practice as a doctor. He gave evidence that he referred to Mr E's relationship with Ms A and didn't use his name. Furthermore, the Tribunal was satisfied that, having discussed Mr E with Ms A on 3 June 2019 and then being aware of the familial relationship, it is unlikely that when Ms A answered the door to Dr Hayes on 10 June, he would have referred to Mr E using his name. The Tribunal found it was more likely that Dr Hayes would have referred to him as '[Mr E]' is usual when discussing someone's relative.

103. Having found it to be more likely that Dr Hayes referred to Mr E and did not use his name, the Tribunal considered whether this was a breach of patient confidentiality. The Tribunal found that it was appropriate for Dr Hayes to speak about this matter to Mr and Mrs B, given that they were both the pharmacists responsible for Mr E's prescription and would have been privy to medication matters already. However, in the Tribunal's view, it was inappropriate for Dr Hayes to speak to Ms A about Mr E in front of her colleagues, due to her having told him on 3 June 2019 that she was not his next of kin and was not involved in his care.

104. The Tribunal therefore went on to consider whether there had been a breach of confidentiality with regard to the patient or patients who may have been in XXX at the time. The Tribunal was mindful that it is unlikely that Dr Hayes used Mr E's name, however it considered that the information which he did disclose, including Mr E's relationship to Ms A and the change in his medication, was identifiable information that could readily have led a person overhearing the conversation to understand who was being discussed.

105. The Tribunal considered the evidence of Ms A, Mr and Mrs B, which was consistent in detailing a patient being in XXX at the time Dr Hayes attended. It also found that from Dr Hayes' position, he was unable to ensure that no member of the public capable of identifying Mr E was listening, as he could not have been sure who was in the waiting room behind him or in XXX.

106. There was no direct evidence of a third party hearing confidential details regarding Mr E. However, the Tribunal was satisfied that there had been a breach of confidentiality, in that Dr Hayes knew or ought to have known that patients in the Pharmacy or Surgery could hear him telling Ms A about a change to Mr E's medication, and that he was sharing information with Ms A about Mr E when she was not involved in his care as explained to him on 3 June 2019.

107. The Tribunal therefore found paragraph 5 proved in relation to paragraph 4 (b) only.

Paragraph 7 (a) and (b)

108. The Tribunal considered paragraph 7(a) and (b) together as they relate to the same conversation between Dr Hayes and Ms A.

109. The Tribunal first considered Ms A's account of the conversation on or around 12 June 2019. In her witness statement, Ms A stated,

'The next day, when I returned to work, I saw the card sitting on the side with my name on and the envelope was transparent enough that I could see the card had the word, 'Sorry' on it and a teddy bear. I didn't want to open it and felt even more harassed and started to feel that I didn't want to come into work anymore! I was told it was from Dr Hayes. At lunchtime, when the surgery waiting room was empty, I handed the unopened card back to the receptionist at the Surgery and Dr Hayes was in the area behind the receptionist's desk at the time and I said to him, 'I shouldn't be receiving a sorry card. I don't need an apology you should apologise to Mr C instead' Dr Hayes said in a loud, raised voice, 'Why do you work for the likes of them ?!', 'You don't know what them people are like.'

110. The Tribunal further consider Dr Hayes' account of the conversation, in his witness statement, he stated,

'When I saw Ms A at reception and she rejected my apology, I told her that she had only heard one side of the story, meaning that whatever she had been told about me by Ms [B] was not a true representation of what had happened between us.'

111. The Tribunal noted that Dr Hayes agreed that he had spoken to Ms A in reception on or around 12 June 2019. The Tribunal then considered the letter written by Mrs B on 5 July 2019 regarding the events, in response to a letter from Dr Hayes on 28 June 2019. In the letter, Mrs B stated,

'You then asked Ms A did she get the card, to which I understand she has retorted she does not want an apology given how we have been treated by you in the past, to which you have shouted back she does not know the other side of the story.'

112. The Tribunal found that this account, provided closer in time than Ms A's witness statement, accords with the account which Dr Hayes has given. The Tribunal therefore found that it was likely that Dr Hayes had made a statement to the effect of, '*you only know one side of the story*'.

113. The Tribunal further considered a letter written by Mr and Mrs B's solicitors to the Surgery on 31 July 2019. The letter contains a heading '*Complaint against Dr Hayes*' and sets out the discriminatory way in which Mr and Mrs B felt they had been treated. The Tribunal did not identify the words, or those similar, contained within that letter – or any other correspondence. The Tribunal found that if these words had been said on 12 June 2019 and Ms A had reported them to her employer, it would have been illogical not to have included them in the letter which specifically deals with the alleged racist behaviour of Dr Hayes.

114. Finally, the Tribunal took into account the witness statement of Ms H who was working at reception when the conversation took place. Ms H stated,

'All that I can remember from their discussion was Ms A asking Dr Hayes to apologise and Dr Hayes saying something along the lines of "you've only heard one side of the story".'

115. The Tribunal found that the account given by Dr Hayes, Ms H and in the letters written by Mrs B and the solicitors for XXX at the time contained the same words used. The Tribunal found that Ms A's account was not credible and was inconsistent with the account she must have given to Mrs B at the time in order for Mrs B to have used the same phrase that others recall. The Tribunal therefore found it was unlikely that Dr Hayes had used the words as set out in paragraph 7.

116. The Tribunal therefore found paragraph 7 of the Allegation not proved in its entirety.

Paragraph 8

117. Having found paragraph 7 of the Allegation not proved, the Tribunal found paragraph 8, relating to racial harassment and racism, not proved in its entirety.

Paragraph 9 (a) and (b)

118. The Tribunal considered paragraph 9(a) and (b) together as they relate to the same conversation between Ms A and Dr Hayes.

119. The Tribunal considered Ms A's account of the conversation in her witness statement. She stated,

'The receptionist advised Dr Hayes was free so I knocked on the door to Dr Hayes room (he was the only doctor on duty) and waited for a response before I slightly entered the room. Dr Hayes answered and asked me to close the door. I asked Dr Hayes to [XXX] and informed him the patient's wife was waiting, and then he looked away from me, staring at his computer screen. He paused and then asked whether [Mr E] lived in the village but I wasn't sure why he was asking me this again. I remember thinking that I'd wished I'd come with someone else as I didn't want to be alone with Dr Hayes.'

'Dr Hayes then asked me "Do you have a boyfriend?" He was smirking when he said it. I couldn't be sure if he was having small talk or asking for himself. I just wanted to get out of there as I found the comment upsetting and unprofessional. I decided to leave immediately and did not respond, and without getting the [XXX] as I didn't want to stand there alone with Dr Hayes and have to listen to this and watch his odd behaviour. I was conscious the door was closed and I was scared.'

120. The Tribunal further consider Dr Hayes' account, in his witness statement,

'I never spoke with Ms A again after June 2019. I also would not have asked her such a personal question. I did not want to have anything to do with [XXX] outside of my strict professional relationship with them, which was already extremely strained. ...'

121. As set out above, the Tribunal has found that Ms A did not make any complaint of sexual harassment about Dr Hayes until her referral to the GMC on 1 September 2022. The Tribunal further did not find any evidence in letters between XXX and the Surgery which indicated that behaviour of such a nature had been reported to Mr and Mrs B, despite them raising many grievances with the way the Surgery treated their staff.

122. With regard to this alleged incident, in particular, the Tribunal had regard to two letters written by the Surgery to XXX on 22 January 2020 and 30 January 2020 which set out clearly that if the XXX staff wished to speak to a doctor, they should contact reception or email to book a time which is convenient. These letters concerned a protocol which the Surgery was implementing with all local pharmacies requiring prescription requests to be made by email.

123. The Tribunal further took into account that if Ms A's account was accurate, by January 2020 she had been approached by Dr Hayes multiple times offering her a lift, she had been stared at more than 40 times in the car park and 'ogled' in reception, as well as having unwanted conversations with him about her family member's health. The Tribunal found that it would have been unlikely that after such events Ms A would go to Dr Hayes' room, alone, voluntarily to ask him about a XXX issue.

124. The Tribunal, taking into account the recently implemented protocol between XXX and Surgery, as well as Ms A's purported fear of Dr Hayes by this time, found that it was unlikely that she would have gone to his room to request he XXX. The Tribunal found Dr Hayes' evidence more plausible, that after upsetting Ms A in June 2019, he decided not to have anything to do with XXX outside of his strict professional relationship with them. Furthermore, the Tribunal was concerned that Ms A had not provided a consistent or credible account of events to the Tribunal and by January 2020 she was personally involved in the business dispute between Dr Hayes and Mr and Mrs B.

125. The Tribunal therefore found paragraph 9 not proved in its entirety.

Paragraph 10 (a)

126. Having found only paragraph 6 proved by Dr Hayes' admission, the Tribunal considered paragraph 10 in relation to paragraph 6 only.

127. The Tribunal was mindful that it was considering a single occasion of interaction between Dr Hayes and Ms A, the occasion on which Dr Hayes had given a 'sorry' card to Ms A, having upset her by discussing Mr E's health the week prior.

128. The Tribunal found that Dr Hayes had provided detailed reasons for sending the card. In his statement, Dr Hayes stated,

'It is admitted as a matter of fact that I sent Ms A a card with the word "sorry" printed on it. I asked a staff member to give the card to Ms A because I did not want to cause any more upset in [XXX] and had been asked not to speak to any of the staff without the permission of [XXX]. This happened the day after I spoke to Ms A about Mr E and I had felt bad for startling her and mentioning [Mr E]. I had discussed the incident with both Dr S and Ms A and they agreed that a card could be the right gesture.'

129. The Tribunal further took into account Dr Hayes' oral evidence, in which he reflected that he could have acted differently, and the card had obviously been poorly received.

130. The Tribunal found that Ms A had interpreted all of Dr Hayes' actions towards her as motivated by his sexual attraction to her. The Tribunal noted in particular that Ms A repeatedly mentioned her age and naivety in oral evidence, and in her statement referred to her '[XXX]' and the look of her work uniform. The Tribunal observed that Ms A appeared to rely on social stereotypes to explain Dr Hayes' behaviour towards her.

131. Furthermore, the Tribunal, as set out above, found no evidence that Ms A had reported Dr Hayes' behaviour towards her to Mr and Mrs B as being sexually motivated. The Tribunal found no mention of Ms A feeling that the treatment from Dr Hayes was sexualised until her referral to the GMC in September 2022.

132. Significantly, despite there being repeated police involvement in the dispute between Dr Hayes and Mr and Mrs B, it was only after Ms A was requested to prepare a witness statement for the police that she became aware that the behaviour may constitute sexual harassment. This was despite Ms A's evidence that she repeatedly discussed Dr Hayes' conduct with Mr and Mrs B, as well as with her family members. The Tribunal noted the absence of Ms A's police statement from the documentary evidence before it. The Tribunal found it unlikely that no one would have raised the sexual nature of Dr Hayes' conduct with Ms A before that time if the events had occurred in the manner alleged.

133. The Tribunal took into account the reasonable explanation which Dr Hayes provided as to why he sent the card, including that he took the advice of his colleagues before sending it. The Tribunal further considered Ms A's account of the sexualised way that she was treated by Dr Hayes which was inconsistent with her account given at the time. The Tribunal was satisfied that Dr Hayes did not send Ms A an apology card with the intention of forming a sexual relationship with her, nor was it intended for sexual gratification.

134. The Tribunal therefore found paragraph 10 (a) not proved in relation to paragraph 6.

Paragraph 10 (b)

135. The Tribunal consider paragraph 10 (b) in relation to paragraph 6 only.

136. As set out above in its consideration of paragraph 10 (a), the Tribunal found that Dr Hayes had a reasonable explanation for sending the 'sorry' card to Ms A, and the Tribunal accepted that he therefore did not intend to engage in unwanted conduct of sexual nature, nor could he have had the intention to violate the dignity of Ms A, or create an intimidating, hostile, degrading, humiliating or offensive environment.

137. The Tribunal then went on to consider whether Ms A had perceived the card to be unwanted conduct of a sexual nature which violated her dignity or created an intimidating, hostile, degrading, humiliating or offensive environment for her. The Tribunal accepted that it had some subjective evidence from Ms A that she felt Dr Hayes had '*harassed*' her and she felt that she didn't want to come into work anymore. However, the Tribunal concluded that it was not reasonable for Ms A to have felt that way about the card, and her reaction at that time, stating '*I shouldn't be receiving a sorry card. I don't need an apology you should apologise to [Mr C] instead*' implies that she did not consider the card to be offensive to her, but that she was angry about the incident on 10 June 2019 and felt Dr Hayes had insulted Mr C by not speaking to him directly about Mr E's medication.

138. The Tribunal therefore concluded that while Ms A's evidence was that she perceived this as unwanted conduct of a sexual nature which had the effect of violating her dignity, this evidence was inconsistent and contradicted by Ms A's own account of her reaction at the time. Furthermore, the Tribunal found that it was not reasonable for this apology card to be perceived by Ms A as an act of harassment.

139. The Tribunal therefore found paragraph 10 (b) not proved in relation to paragraph 6.

Paragraph 11

140. The Tribunal first considered the date change which Mrs B made at the start of her evidence. At the start of her oral evidence, Mrs B amended her witness statement to say that the conversation between her and Dr Hayes had taken place on 7 February 2019 rather than 9 February 2019. Mrs B stated that the date had been a 'typo' which she wished to correct and further stated that she knew the conversation had happened on 7 February 2019 as this date had personal significance for her.

141. The Tribunal analysed the extensive written correspondence between the parties and found that there was written evidence indicating that Dr Hayes and Mrs B had a conversation on 7 February 2019. It was clear from the correspondence that there had been an ongoing difference of opinion between Dr Hayes and the Pharmacy, in particular with Mrs B, about whether or not the Surgery would continue to send prescriptions for injectable medications to the Pharmacy or whether the Surgery would order the medication directly before administering the injection. It was agreed between the parties that the previous owner of the Surgery, Dr P, had sent the prescriptions to the Pharmacy and that Dr Hayes had changed this approach in late 2018.

142. The Tribunal found that this ongoing dispute had become acrimonious. One particular patient required an injectable medication every 28 days. The Pharmacy had emailed the Surgery on 12 January 2019 asking for the prescription, when a duplicate had been provided to the Pharmacy. A letter was then sent to the Surgery by the Pharmacy on 7 February 2019 chasing the prescription. In her oral evidence, Mrs B stated that she wrote this letter as the patient had come in asking about the prescription. However, it was agreed between the parties that the patient's medical record showed she had received the injection at the Surgery the day before, 6 February 2019. Moreover, there was significant confusion with Mrs B's evidence regarding the patient, as she initially stated that the letter was written before the Pharmacy opened on the 7 February 2019, then stating that the patient was waiting for the prescription in the open pharmacy after the incident occurred. The Tribunal also noted that Mrs B stated the prescription was urgent, which was at odds with the agreed medical record.

143. The Pharmacy's letter sent on 7 February had a handwritten note in the top right dated 11 February 2019, stating '*NO PREFERENCE. HAPPY TO GO THROUGH SURGERY. HISTORICALLY HAD ISSUE WITH INJ WAS NOT IN STOCK WHEN TURNING UP FOR HER APPOINTMENT*'. There was a further undated handwritten note on the letter which stated, '

*presume the reason they have not found prescription is that it has been done for us to claim.
Should not be issuing duplicates.'*

144. A further letter was received by the Surgery from Mrs B dated 14 February 2019. In this letter, which had not provided by the GMC, but accepted as being written by Mrs B, she wrote,

'Having attempted to resolve the issue myself over the past week to be told this now the new policy is disappointing to hear given [XXX] Pharmacy have been dispensing this prescription throughout your entire tenancy as GP partner, pre and indeed post Dr [P's] departure.

...

In my attempts to resolve the situation I have been challenged back, where I have been spoken to rudely and felt the matter was dealt with disrespectfully and forced to tears by your practice, where my patients & colleagues have seen me cry, exasperated at my mere attempts to find respectful reasoning on the matter. My attempts were fair and reasonable, appealing to a rational side of the practice and done in the hopes of being treated respectfully, with a mutually acceptable outcome.'

145. The Tribunal noted that Dr Hayes referred to this letter in his witness statement and produced it as his exhibit,

'Ms [B] [Mrs B] came to me and asked me to provide a prescription for the injection to [XXX]. I said that I could not do that because the prescription had already been claimed. Ms [B] spoke to me, my Practice Manager twice, our receptionist, a locum doctor, and then returned to me again to say that she was not happy and wanted the prescription. I said that I could not change what had happened because it had been claimed for. Ms [B] then demanded that the patient have all future prescriptions for injections sent to [XXX]. I said I could not do so because where prescriptions go is patient choice. It would actually have been easier for the patient to do what she had just done, which was to simply book an appointment with us, as opposed to having to request a prescription, collect it and bring it with her to an appointment. If she had wished to continue with the previous arrangement, we would have respected this. I later received a letter from Ms [B] on 14 February 2019 about the injectables incident.'

146. The Tribunal noted that Mrs B's letter of 14 February detailed a confrontation in which she described being '*challenged back*' by Dr Hayes. The Tribunal, taking into account the most contemporaneous account, which is the series of letters and emails in which Mrs B wrote to the Surgery regarding the injectable medication, found that there had been a confrontation about the medication, and it was probable this was on 14 February 2019.

147. The Tribunal was mindful, however, that giving evidence is not a memory test and the witnesses in this hearing were attempting to recall incidents which had now occurred more than six years ago. The Tribunal was therefore satisfied that although the date was most

likely 14 February 2019, it was necessary to consider whether Dr Hayes made the comments which Mrs B alleged.

148. The Tribunal then considered whether the words alleged to have been said by Dr Hayes were contained within any contemporaneous document accepted as having been produced by Mrs B. As set out above, Mrs B wrote several letters around this time detailing her difficulties with Dr Hayes and in particular the letter dated 14 February 2019 sets out a confrontation in which she described being '*challenged back*'. The Tribunal noted that Mrs B did not set out the specific phrase, or anything similar, used by Dr Hayes in her letter.

149. Mrs B, when asked in oral evidence, confirmed that there was only one occasion on which she left the Surgery in tears and rushed back to the Pharmacy as described in her witness statement in relation to this incident. The Tribunal, as set out above, concluded that this occasion was most likely following the incident on 14 February 2019. It was therefore striking that despite complaining about Dr Hayes' conduct in the interaction, Mrs B did not mention the phrase or any indication of racially charged words being used.

150. The Tribunal went on to consider the accounts which Pharmacy staff were able to give of Mrs B's reaction immediately having returned to the Pharmacy. In his statement, Mr C stated,

'In February 2019, Dr Hayes said to my wife, 'I don't deal with your type'. I didn't witness this interaction between Dr Hayes and my wife as I was speaking to a patient at the time. She came in to [XXX] from [XXX], ran into the bathroom, in tears. She came out and everyone was really concerned about her. There were customers and staff in [XXX] at the time. She wouldn't stop crying and was really emotional. She said to me, that he's racist and he's racially abused me and by he she meant Dr Hayes. I said to her, 'What did he say?' She said, 'He said 'I don't deal with your type''.'

151. The Tribunal also took into account Ms A's statement, in which she stated,

'On 9th February 2019, Mrs B rushed into the Pharmacy crying and visibly upset after having been in the Surgery. She quietly said Dr Hayes had been racist. I thought saying she was told she is the "wrong type" and she was very upset, and she went straight to the toilet and did not stop to talk. When she came out, I hugged her and so did two care home nurses that worked in the village who also saw how upset she was. I believe Mrs B went home early that day, but she was very quiet and upset.'

152. The Tribunal took into account that both Mr C and Ms A recalled the exact words that Mrs B had used following the confrontation with Dr Hayes over the injectable prescription, although neither agreed that this occurred on 7 February 2019. Curiously, they had both made the identical mistake in the date to Mrs B, stating it occurred on the 9 February 2019, although neither sought to alter the date during oral evidence. It was also notable that the 9 February 2019 date was included in both Mr and Mrs B's statements made to the police, which contained a statement of truth with a warning of criminal sanction if the details

provided were false or inaccurate. It was therefore surprising that despite the date being of importance to Mr and Mrs B, neither of them had noted the mistake. It was significant that the 9 February 2019 was a Saturday, when Mrs B and Dr Hayes were unlikely to have been on the premises together as Mrs B gave oral evidence that she never worked Saturdays.

153. The Tribunal was mindful that Mr and Mrs B and Ms A had discussed the pressured events between the Surgery and the Pharmacy on multiple occasions over the years, both between themselves and with others. Mr C in particular set out that he sought the opinion of friends and family who are registered doctors about how to deal with the comments made by Dr Hayes.

154. The Tribunal was concerned that the witness statements had been prepared in 2023 – over four years after the events - and it therefore placed significant reliance on the letters and statements prepared closer to the time. The Tribunal considered a letter written by Mrs B on 5 July 2019, in which she stated, in response to a request from the Surgery to particularise her claim of racist conduct,

'In terms of your statement of expecting a letter regarding allegations made-respectfully, we would hold our counsel regarding the matter and permit bodies who are have been made aware of the matters to conduct their investigations. We raised legitimate concerns to the practice. That is the purpose of external organisations who will look into the matter with the practice directly. The complaint was made to the practice, not you directly.'

155. The Tribunal noted that the specific words which Dr Hayes used were not set out, and Mrs B had, in this letter, refused to particularise her claim of racist conduct. The Tribunal noted that in oral evidence, Mrs B claimed that the words were recorded in the written complaint of racism which was provided to the Surgery shortly after this incident, which is inconsistent with what was said in the letter of the 5 July 2019. Moreover, the Tribunal had not been provided with this document and neither Dr Hayes – nor anyone from the Surgery – gave evidence that they had ever received it. The Tribunal noted that the first instance in which Mrs B utilises words similar to those contained in the allegation were recorded was in an email to a third party in November 2019. Taking all of the evidence into account, contrary to Mrs B's evidence, the Tribunal found that a written complaint of the incident was unlikely to have ever been provided to the Surgery.

156. The Tribunal was satisfied that there was no contemporaneous evidence to support the use of the words alleged, despite evidence of some form of confrontation on 14 February 2019 between Dr Hayes and Mrs B. The Tribunal considered that the later accounts given to the police and the witness statements prepared for these proceedings were most likely to have been coloured by the ongoing business dispute between Dr Hayes and the Pharmacy.

157. The Tribunal was mindful that Mr and Mrs B had purchased the Pharmacy from Dr P. It was evident from the documentation provided that the income which the Pharmacy generated once Dr P retired was not what Mr and Mrs B had expected. An example of these

differences is the dispute set out above about the prescription and administration of injectable medication by the Surgery, resulting in a loss of income to the Pharmacy. The Tribunal also heard evidence about disputes over the use of NOMAD trays by the Pharmacy, requests for unlicensed preparations of medications and the administration of flu vaccines. The Tribunal noted that in her oral evidence, Mrs B denied these disagreements amounted to disputes or differences of opinion. However, this was significantly inconsistent with the numerous letters which she accepted she had written to the Surgery at the time detailing her financial concerns. For example, in the letter dated 7 February 2019, Mrs B wrote,

'The pharmacy has lost circa £7,500K annual turnover to [XXX] Surgery since the removal of this item from the pharmacy usual dispensing, where indeed many pharmacies (not surgeries) in the UK dispense this item month on month, as we thought we would be inheriting when purchasing this pharmacy based on previous 36 months worth of PPD statements.'

'We have had to have the notion of "hard luck" from [XXX] Surgery, and deal with the major internal ramifications this removal of income has had upon the Pharmacy, with no compromise on the matter offered over the past 12 months.'

158. The Tribunal found that these disputes over prescribing and the potential profit implications for the Pharmacy were compounded by the decision which Dr Hayes and Dr F took to remove Mr and Mrs B XXX from the Surgery patient list in April 2019. Dr Hayes stated that this decision was taken as a result of the racism complaint made verbally to Ms G at some point in April 2019, as well as concerns of a conflict in interest. Mr and Mrs B disputed this account and wrote a series of lengthy and detailed letters to the Surgery and Dr Hayes throughout 2019. The Tribunal noted that many of the letters stated that the removal from the patient list was a continuation of the racist treatment which Mr and Mrs B felt they were subject to at the time, for example, they wrote on 20 May 2019,

'Offensive environment, that is taking place, which we have experienced when trying to bring up important issues- through seemingly ignorance and dismissal of our feelings/experience whenever we have tried talking to Dr Hayes. We are incredibly experienced professionals. |[XXX]. Why would you dismiss anything with an experienced pharmacist would have to say in an offensive manner as we have received upon arrival to XXX.'

159. The Tribunal noted that a meeting took place at the Surgery on 25 April 2019 between Dr F, Dr Hayes and Ms G, where the racism complaint was discussed. The minutes themselves state that the complaint would need to be addressed with a query as to what '*channels to go down*'. It is unfortunate that having acknowledged the complaint of racism, the Surgery did not undertake any form of investigation, which was compounded by a simple statement declaring all agreed there was '*no basis*' for the complaint. The Tribunal found that it was reasonable for Mr and Mrs B to feel that their complaint had not been taken seriously.

160. The Tribunal bore in mind the ongoing disputes between the Surgery and Pharmacy, in particular that Mr and Mrs B felt that they had been treated differently by Dr P before his retirement. The Tribunal found that it was reasonable for Mr and Mrs B to seek an explanation as to why Dr Hayes had changed the prescribing practices of the Surgery, especially as they had been given assurances about the income to be expected by Dr P. However, it was notable that unlike Dr P, who had sold the Pharmacy to Mr and Mrs B, Dr Hayes had no financial interest in the Pharmacy.

161. Under cross-examination, Mrs B maintained that she had no issues with anyone at the Surgery except for Dr Hayes. This evidence was wholly inconsistent with the accounts from Drs K and F, and two other members of Surgery staff. Dr K stated in a witness statement, provided to the County Court, about Mr and Mrs B that they had '*[a] propensity to vilify and disparage people who work in this surgery, as I do*'. The Tribunal further noted that Mr and Mrs B had raised allegations of bias against a professional accountant involved in the purchase of the Pharmacy and against a local councillor who they had gone to for support when professional disagreements with the Surgery arose.

162. The Tribunal bore the context in mind of the confrontation which most likely did take place in February 2019 between Dr Hayes and Mrs B, however it was not satisfied from the evidence that Dr Hayes used the words, or any words similar to those set out in the Allegation. The Tribunal was not satisfied that Mr and Mrs B, and Ms A, were able to give consistent accounts on the central allegation. In particular, it was struck by Mrs B's denial, in oral evidence, that the Pharmacy and Surgery had any disputes at all and that she had no issues with Dr Hayes' colleagues, given the voluminous correspondence detailing these disputes. The Tribunal could not be satisfied that it was more likely than not that Dr Hayes had said the words specified in the Allegation to Mrs B.

163. The Tribunal therefore found paragraph 11 of the Allegation not proved.

Paragraph 12

164. Having found paragraph 11 of the Allegation not proved, the Tribunal found paragraph 12, relating to racial harassment and racism, not proved in its entirety.

Paragraph 13 (a) and (b)

165. The Tribunal considered paragraph 13 (a) and (b) together as they are alleged to have been said as part of the same conversation between Dr D (Dr D) and Dr Hayes.

166. The Tribunal first considered Dr Hayes' witness statement, in which he stated,

'I do remember talking to Dr [D] about the fact that he need not feel pressured into prescribing if pushed by Ms [B]. It was common for Ms [B] to enter doctors' rooms uninvited, often between patients, to ask for prescriptions to be signed. The purpose of the conversation would have been to re-assure him of his position and to try to prevent

him being manipulated or intimidated into doing something he was not comfortable with.'

167. In his oral evidence, Dr Hayes elaborated and stated that Dr D had begun work at the Surgery in October 2018 and shortly thereafter had been given notice of his termination. Dr Hayes stated that Dr D left in early January 2019 and therefore he stated that he would have already given Dr D notice in December 2018. Dr Hayes stated that it was therefore unlikely that he had been talking to Dr D about this matter in December 2018, although he accepted, as set out in his witness statement, that he may have had a similar conversation with Dr D when he joined the Practice in October 2018.

168. The Tribunal noted that in her oral evidence on this matter, Mrs B initially stated that the conversation had taken place in January 2019, and then revised her evidence to state that it was more likely in December 2018. The Tribunal further noted that Mrs B had stated that Dr D provided a witness statement in support of the Pharmacy during the County Court proceedings in 2020, however this statement was not included in the list of evidence set out by the judge in the County Court and was not provided to the Tribunal.

169. The Tribunal found that Mrs B had given inconsistent and unreliable evidence on her recollection of this conversation, and it had further identified other matters on which she gave inconsistent evidence that was at odds with the contemporaneous documents she wrote. The Tribunal was satisfied that Dr Hayes had likely said something to Dr D regarding the pharmacists' prescribing and interruptions upon his arrival at the Surgery and it was possible that Mrs B overheard it. However, the Tribunal was not satisfied that there was reliable evidence that Dr Hayes had used the specific words and at the time set out in the Allegation.

170. The Tribunal therefore found paragraph 13 of the Allegation not proved.

Paragraph 14 (a)

171. The Tribunal considered Dr Hayes' account of the incident on 9 November 2019, as set out in his witness statement,

'I had been present in the surgery (I cannot remember what I was doing, possibly catching up on work) as [Mr Q] the electrician and [Ms G] were talking to each other in the Treatment Room just prior to the works being started. At that point, I think [Ms G] suddenly realised that she had not told the pharmacy in advance, but the Pharmacists were no longer in [XXX]. I decided that at that point, it was too late to ask them (because I felt certain they would have refused), and on the basis that [Mr Q] said he did not think the power would be off long enough to affect fridge temperatures, I said he should just get on with it. This was a spur of the moment decision, in the context of a very difficult relationship with the Pharmacists who had seemed to be refusing to allow works which would have been to their benefit, simply for the sake of being obstructive. I made a decision based on the fact that we were having frequent

unexpected power cuts anyway and at least this would have been controlled. I took the decision to trust the electrician's judgement that the fridges would not be affected for an outage of 2 hours.'

172. In his oral evidence, Dr Hayes confirmed that whilst he could have obtained contact details for Mr and Mrs B, he chose not to contact them as he felt they would most likely refuse to let him carry out the work, as they had other necessary maintenance work, and it had become essential due to frequent power cuts. Further, Dr Hayes stated that he had to compare '*the risk of unscheduled power cut with the risk of 2 hours power cut which I was reassured at the time wouldn't affect the fridge temperatures*'.

173. The Tribunal found that it was clear from Dr Hayes' account of events that he had authorised a power cut to the Surgery and Pharmacy building on 9 November between 1 and 3pm. Whilst he had assumed that Ms G had already contacted the Pharmacy, she stated that through an oversight, she had not done so before the decision was made to continue with the electrical work. He then chose not to inform Mr and Mrs B, and this had resulted in the Pharmacy fridges being without electricity. The Tribunal further found that Dr Hayes had been aware of the risk of degradation, as he had clearly discussed it with the electrician and Ms G, ultimately forming the view that the risk of degradation to medication in the fridges, for a limited, scheduled period, was less serious than the ongoing risk of repeated unscheduled power cuts.

174. Paragraph 14 (a) of the Allegation concerned solely the risk of degradation. The Tribunal was of the view that it need not consider whether the medication was actually degraded by the alleged breach in the cold chain. The Tribunal further considered that the Allegation was not concerned with Dr Hayes' intention, simply the decision to authorise the power cut when there was a known risk. The Tribunal found that despite being assured that there would be no difficulty with the fridges by the electrician, on site on the day, Dr Hayes had clearly appreciated the risk of degradation to the refrigerated medication both in the Surgery and in the Pharmacy.

175. The Tribunal therefore found paragraph 14 (a) of the Allegation proved.

Paragraph 14 (b)

176. The Tribunal considered the schedule of loss submitted by Mr and Mrs B as part of the insurance claim, to cover their losses, made by the Surgery. The claim form prepared by the Pharmacy listed the losses as £2,913.68 for the medication and £1,903 lost income from the administration of vaccines. The Tribunal therefore found that the actual loss to the Pharmacy was £4,816.86.

177. The Tribunal heard agreed evidence that this amount was paid by the Surgery's insurers to the Pharmacy. It follows that there was therefore not a loss to the Pharmacy of £6,000 or any figure close to that amount.

178. The Tribunal therefore found paragraph 14(b) of the Allegation not proved.

Paragraph 15

179. The Tribunal considered the CCTV evidence which had been provided of the car park on 13 January 2022 at 16.35. The Tribunal was concerned that it was provided only with screenshots of the CCTV by Ms A, not the entire video. This was particularly relevant to the part of the allegation concerning Dr Hayes '*revving*' the car. In oral evidence, neither Ms A, Mrs B or Mr C were able to explain why only selected screenshots had been provided and not the entire video, which had clearly been available at the time the screenshots were taken.

180. Ms A, Mrs B and Mr C also provided accounts of the Pharmacy door being opened and the Pharmacy filled with exhaust fumes. None of the GMC witnesses were able to explain where Dr Hayes' car had initially been parked and the witnesses gave varying accounts for how long the incident lasted.

181. The Tribunal analysed the screenshots and found that the Pharmacy door was open for 21 seconds, during which time Dr Hayes' car was relatively close to the door. The Tribunal considered Dr Hayes' account of the incident,

[XXX] has a tight carpark, in which there is barely a car's length between parked cars on either side of the car park. One must reverse and swing around in order to get out of the car park.

On this particular occasion I needed to undertake a multi-point turn to get out of the car park space, in which my reverse light is used on two occasions during my manoeuvres.

I had nowhere else to reverse but towards [XXX]. I had no idea that my car would prompt their automatic doors to open and I therefore did not contemplate that they would. I had not even noticed that the doors had opened.'

182. The Tribunal considered that Dr Hayes' account of the manoeuvre which he undertook was corroborated by the CCTV stills which show his car moving back and forwards with the reversing lights visible in some screenshots and not in others.

183. The Tribunal was of the view that the wording of this paragraph of the Allegation, in particular the word '*revving*', implied that there must have been an intent on Dr Hayes' part to deliberately emit excessive fumes into the Pharmacy. The Tribunal was not satisfied that the evidence showed that Dr Hayes had purposefully or even recklessly positioned his car exhaust outside the Pharmacy door, caused it to open and then deliberately caused it to produce excessive fumes. The Tribunal was satisfied that Dr Hayes' account of the incident was supported by the CCTV screenshots. Further, the Tribunal took account of Dr Hayes' good character in these proceedings and considered it unlikely that he would act in such a

way in a public area directly outside his Surgery where it was probable he would be seen by patients and colleagues.

184. The Tribunal therefore found paragraph 15 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

185. The Tribunal has determined the facts as follows:

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

1. On one or more occasion, since August 2018 you behaved in a manner that made Ms A uncomfortable, in that you:
 - a. sat in your car and stared at her as she walked through the car park to work XXX;

Determined and found not proved.

- b. stared at her when you walked past her in the car park;

Determined and found not proved.

- c. stared at her in a shop;

Determined and found not proved.

- d. stared at her whilst she was in the Surgery;

Determined and found not proved.

- e. looked her body up and down whilst she was in the Surgery.

Determined and found not proved.

2. On one or more occasion between 2019 and 2020 you behaved in a manner that made Ms A uncomfortable, in that when Ms A was walking to work XXX you would slow your car down at the side of her and ask if she wanted a lift, despite Ms A:

3.

- a. being close to XXX;

Determined and found not proved.

- b. previously declining a lift.

Determined and found not proved.

4. On 3 June 2019, you approached Ms A whilst she was at work and whilst speaking to her stroked Ms A's arm with your hand.

Determined and found not proved.

5. On 10 June 2019 you approached Ms A whilst she was at work and in front of her colleagues and/or patients, who you knew or ought to have known could hear you, you told her:
 - a. that you had just seen Mr E;

Determined and found not proved.

- b. about a change to Mr E's medication;

Determined and found proved.

- c. how unwell Mr E was;

Determined and found not proved.

- d. about Mr E's leg ulcers.

Determined and found not proved.

6. Your actions as set out at paragraph 4 were a breach of patient confidentiality.

Determined and found proved in relation to paragraph 4 (b) only.

7. On or around 11 June 2019, you sent Ms A a card with the word 'Sorry' and a teddy bear printed on it, to her workplace.

Admitted and found proved.

8. On or around 12 June 2019, you said to Ms A, in reference to Ms B and Mr C:
 - a. 'Why do you work for the likes of them?', or words to that effect;

Determined and found not proved.

- b. 'You don't know what them people are like', or word to that effect.

Determined and found not proved.

9. Your conduct as set out at paragraph 7:

- a. constituted harassment related to race as defined in section 26(1) of the Equality Act 2010, in that you engaged in unwanted conduct related to race,

which had the purpose or effect of violating the dignity of Ms A or creating an intimidating, hostile, degrading, humiliating or offensive environment for her;

Determined and found not proved.

- b. was racist.

Determined and found not proved.

10. On a date in or around January 2020, when approached by Ms A about a XXX, you:

- a. stared up and down at Ms A;

Determined and found not proved.

- b. said to Ms A, 'do you have a boyfriend?', or words to that effect.

Determined and found not proved.

11. Your actions as set out at paragraphs 1, 2 ,3, 6, 9(a) and 9(b) were:

- a. sexually motivated;

Determined and found not proved in relation to paragraph 6.

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

Determined and found not proved in relation to paragraph 6.

12. On or around 7 ~~9~~ February 2019, you said to Ms B, 'I don't deal with your type. You know what I mean', or words to that effect.

Amended under Rule 17(6).

Determined and found not proved.

13. Your conduct as set out at paragraph 11:

- a. constituted harassment related to race as defined in section 26(1) of the Equality Act 2010, in that you engaged in unwanted conduct related to race, which had the purpose or effect of violating the dignity of Ms B or creating an intimidating, hostile, degrading, humiliating or offensive environment for her;

Determined and found not proved.

- b. was racist.

Determined and found not proved.

14. On a date in December 2018, you informed Dr D within earshot of Ms B:
- 'not to help her', or words to that effect;

Determined and found not proved.

- that he did not need to listen to Ms B, or words to that effect.

Determined and found not proved.

15. ~~You authorised in September 2019 you scheduled~~ a power cut to the Surgery and Pharmacy building on 9 November 2019 between 1.00pm and 3.00pm without notifying Mr C and/or Ms B, resulting in the Pharmacy fridges being without electricity for an unknown period of time resulting in:
- a risk of degradation to the refrigerated medication;

Amended under Rule 17(6).

Determined and found proved.

- a loss of ~~medication costing~~ to the Pharmacy ~~of~~ approximately £6000.00;

Amended under Rule 17(6).

Determined and found not proved.

- ~~replacement medication costing the Pharmacy approximately £6000.00.~~

Amended under Rule 17(6).

16. In January 2022, you reversed your car up to the doors of the Pharmacy causing the automatic doors to open and revved your car engine for approximately 30 seconds, resulting in petrol fumes entering the Pharmacy.

Determined and found not proved.

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

To be determined.

Determination on Impairment - 25/11/2025

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, Dr Hayes' fitness to practise is impaired by reason of misconduct.

The Evidence

2. In reaching its determination, the Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received a defence stage 2 bundle. This bundle included a reflective statement from Dr Hayes, details of CPD courses he has undertaken, testimonials from his clinical colleagues attesting to his clinical work and character and testimonials from close professional friends attesting to his character.

Submissions on Impairment

On behalf of the GMC

3. Ms Georgina Goring, Counsel, submitted that the GMC adopted a neutral position in relation to misconduct and impairment; she did not seek to make any positive submissions in this respect on behalf of the GMC. She acknowledged that impairment has a two-stage approach and that there is no legal definition as to what constitutes misconduct. Ms Goring referred the Tribunal to relevant case law and submitted that, in light of that, the Tribunal needed to consider whether there had been any breaches of Good Medical Practice (GMP) (with the 2013 version being in place at the time of the events). Ms Goring also reminded the Tribunal of Dame Janet Smith's Fifth Shipman Report, adding that it was for the Tribunal to assess whether there was a risk of repetition.

On behalf of Dr Hayes

4. Ms Viviene Tanchel, Counsel, also referred the Tribunal to relevant case law on misconduct and impairment. She submitted that the facts found proved and the single admission made by Dr Hayes did not cross the threshold as to amount to misconduct; namely whether Dr Hayes' actions were considered deplorable or egregious by fellow members of the medical profession.

5. Ms Tanchel referred the Tribunal to its findings set out in its determination on the facts and submitted that the most significant matters which the Tribunal would be concerned about are the breach of confidentiality in relation to the conversation with Ms A in respect of Mr E, and authorising the switching off of the power affecting the medication stored in the fridge. Ms Tanchel said that at its highest, Dr Hayes' actions could be considered careless or reckless, however, it is plain that the events occurred in the context of the difficulties being experienced between him and the pharmacy.

6. Ms Tanchel said that this was a single breach of confidentiality, which occurred some six years ago. She also reminded the Tribunal of its' findings on the incident and that the

breach was not intentional. In relation to the switching off of the power, she submitted that this was an isolated incident and whilst it may be considered to fall below the standards expected, it would be rare to find such an action amounted to misconduct, let alone serious misconduct. Ms Tanchel said that Dr Hayes' decision was predicated on two issues, firstly, that it was his understanding right up until the day that the practice manager was going to inform the pharmacy, and secondly, that it occurred within the context of the fraught and difficult relationship between the pharmacy and Dr Hayes. She said that there was no deliberate intention by Dr Hayes to cause the pharmacy any harm or to their business. She went on to say that whilst it was an unfortunate and ill-judged decision, it does not cross the threshold of being deplorable or egregious.

7. In relation to impairment, Ms Tanchel referred the Tribunal to the defence stage 2 bundle. She said that Dr Hayes had put in a considerable amount of work in the intervening period since March 2025 and now in relation to the Tribunal's findings. She referred the Tribunal to Dr Hayes' personal reflections and said that these demonstrated that he has undertaken a detailed analysis and careful consideration of what has gone wrong in his practice, as found by the Tribunal, and how sorry he is for what happened. Ms Tanchel said that Dr Hayes is an extremely thoughtful and well considered man who takes life very seriously; his approach to everything is therefore considered and respected.

8. Ms Tanchel referred the Tribunal to, what she described as, determined and focused remediation undertaken by Dr Hayes, prior to and since these proceedings began, and drew its attention to Dr Hayes' relevant CPD. Ms Tanchel submitted that Dr Hayes has been on a path to remediate any failings or perceived failings and also to gain a deeper understanding of how he behaves, how he deals with conflict and how this may impact on the care he provides to his community, as well as how it impacts on the reputation of the medical profession.

9. Ms Tanchel submitted that taken individually or collectively, none of the proven findings amount to misconduct because they do not cross the threshold for serious misconduct. She added that there could be no question about any risk to public confidence, adding that Dr Hayes has done more than could be expected of him to reflect deeply and obtain the necessary insight. She said that any member of the public, aware of all of the facts in this case, would not be shocked or dismayed to understand that Dr Hayes was free to practise without any findings against him.

The Relevant Legal Principles

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

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

12. The Tribunal was mindful of the case of *Cohen v GMC (2008) EWHC 581* in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner's misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner's misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

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

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

The Tribunal's Determination on Impairment

Misconduct

14. The Tribunal first considered whether Dr Hayes' actions amounted to misconduct, and if so, whether that misconduct was serious.

15. The Tribunal first considered the breach of confidentiality, as in its judgment, this was the most serious finding against Dr Hayes. The Tribunal had been satisfied that the conversation between Dr Hayes and Ms A took place when others were able to hear what was being discussed. At paragraph 86 of its determination on the facts, the Tribunal stated:

'The Tribunal next considered whether or not the conversation took place in front of Ms A's colleagues. The Tribunal found that it was evident from Dr Hayes' account that Mr C had been present, as he intervened in the conversation. The Tribunal noted that Ms A had stated that Mrs B was present, with Mrs B being able to give an account of the conversation to the Tribunal. The Tribunal therefore found that the conversation did take place in front of Ms A's colleagues.'

16. It is recorded at paragraphs 87 and 88 of the Tribunal's determination on the facts, that Dr Hayes accepted that he was standing at the interconnecting door between the Surgery and the Pharmacy. In a letter to the Pharmacy of 28 June 2019, Dr Hayes stated:

'With respect to discussing patients within earshot of the waiting room, I agree with you. In this case because I did not use the patient's name and had, as it turned out inaccurately, referred to the patient on the basis of what I understood his relationship to Ms A to be, I don't think there can have been any breach of confidentiality. I agree that we all need to be careful about mentioning patients' names in the waiting area.'

17. The Tribunal had regard to paragraphs 50 and 69 of GMP (2013 version – applicable at the time these events occurred), which state:

'You must treat information about patients as confidential. This includes after a patient has died.'

'When communicating publicly, including speaking to or writing in the media, you must maintain patient confidentiality. You should remember when using social media that communications intended for friends or family may become more widely available.'

18. The Tribunal considered that Dr Hayes' actions in speaking to Ms A about the patient had the potential to disclose confidential information. The Tribunal found, and Dr Hayes later accepted - after reflecting on its' findings on facts - that his actions could have breached patient confidentiality and amounted to a breach of GMP.

19. The Tribunal has taken into account that this was an isolated incident which occurred some six years, in the context of what was a difficult working relationship between Dr Hayes and the Pharmacy. It also noted that Dr Hayes wrote to Ms A, seeking to apologise for his actions at the time.

20. In his personal reflections document, the Tribunal noted that Dr Hayes refers to paragraphs 118, 119 and 121 of GMP (within the 2024 version), and sets out relevant courses he has undertaken to remediate his failings. This includes an online course organised by the British Medical Journal (BMJ) entitled 'Confidentiality and disclosure: your guide to handling patient Information' on 9 February 2025; and subsequently a webinar organised by the MDDUS . He also states:

'....allowing an opportunity to discuss some of the ethical dilemmas I have faced with respect to confidentiality, and some which I might face in future.'

and

'I am aware of the importance of confidentiality in maintaining trust in the medical profession and that without trust, patients may not feel able to adequately disclose symptoms or concerns. This could have an effect on their health or wellbeing which is (and should be) my first concern. At the time I did not consider that what I had said to Miss A had breached my patient's confidentiality because I had my back to the waiting area, spoke quietly and gave minimal detail, asking when his next NOMAD tray was

due. I understand, having reviewed the GMC guidance and having listened to the Tribunal Panel, that this was an incorrect assumption. They pointed out that if a member of the public had heard me refer to the patient on the basis of his relationship with Miss A, and they had known the family, they may have been able to deduce his identity and that this would have resulted in a breach of his confidentiality. I don't think I had given enough weight to the possibility that a patient's identity could be deduced from information such as this, but this is now something that I will take into account.'

21. The Tribunal is encouraged by Dr Hayes' personal reflections and the remediation he has undertaken to address the concerns identified in this respect.

22. The Tribunal considered that Dr Hayes' actions may amount to misconduct because they had the potential to disclose confidential information about a patient to others not entitled to that information. However, the Tribunal considers that Dr Hayes' actions were careless, not deliberate, in the context of difficult working relationships at the time. Taking all of the evidence into account, the Tribunal determined that Dr Hayes' actions did not meet the threshold to amount to serious misconduct. The Tribunal also observed that there has been no repetition and Dr Hayes has now gained insight into his conduct.

208. The Tribunal also considered the sending of an apology card to Ms A. This allegation was admitted by Dr Hayes at the start of the proceedings and needs to be viewed within the context of the events with the pharmacy. The Tribunal did not consider this act, howsoever it was perceived by Ms A, to be capable of amounting to serious misconduct, even when considered with the other proven allegations. The Tribunal noted that in his personal reflections, Dr Hayes acknowledged that it was inappropriate in the circumstances.

209. The Tribunal next considered whether Dr Hayes' actions in authorising the turning off of the power to the building resulting in degradation of the medication in the Pharmacy fridge, amounted to misconduct which was serious.

210. In its determination on the facts, the Tribunal found that Dr Hayes authorised a power cut to the Surgery and Pharmacy building on 9 November 2019 between 1,00pm and 3.00pm. It was Dr Hayes' account that he was present in the Surgery as the electrician and the Practice Manager were talking. Dr Hayes said that he realised the Practice Manager had not informed the Pharmacists of the maintenance work which required cutting the power to the building for approximately two hours on the advice of the electrician. By the time he realised, the Pharmacists had already left the building, and he did not contact them due to the difficult working relationship with them. Dr Hayes explained in his witness statement and in his oral evidence:

'....I decided that at that point, it was too late to ask them (because I felt certain they would have refused), and on the basis that [Mr Q] said he did not think the power would be off long enough to affect fridge temperatures, I said he should just get on with it. This was a spur of the moment decision, in the context of a very difficult

relationship with the Pharmacists who had seemed to be refusing to allow works which would have been to their benefit, simply for the sake of being obstructive. I made a decision based on the fact that we were having frequent unexpected power cuts anyway and at least this would have been controlled. I took the decision to trust the electrician's judgement that the fridges would not be affected for an outage of 2 hours.'

211. The Tribunal had regard to paragraph 35 of GMP which states:

'You must work collaboratively with colleagues, respecting their skills and contributions.'

212. The Tribunal was mindful of Dr Hayes' unchallenged evidence that he had to compare '*the risk of unscheduled power cuts with the risk of a 2-hour power cut which I was reassured at the time wouldn't affect the fridge temperatures'*.

213. The Tribunal notes that Dr Hayes, in his personal reflections, cites paragraphs 48, 49 and 53 of GMP (2024 version) and states:

'I have reviewed Good Medical Practice in light of the proven allegation and it states:

- Para 48: You must treat colleagues with kindness, courtesy and respect.*
- Para 49: To develop and maintain effective teamworking and interpersonal relationships you must:*
 - a. listen to colleagues*
 - b. communicate clearly, politely and considerately*
 - c. recognise and show respect for colleagues' skills and contributions*
 - d. work collaboratively with colleagues and be willing to lead or follow as the circumstances require*
- Para 53: You should be aware of how your behaviour may influence others within and outside the team.*

It is clear that I should have communicated more effectively and considerately with respect to the interruption of the power supply. I had previously tried to reach a collaborative solution to the electrical problems we were having in the surgery. In retrospect it may have been that had the Pharmacists had more faith in my respect for their skills and contributions that we may have been able to reach an agreement prior to this incident.

....

In retrospect, I should have cancelled the electrician and tried again to negotiate with the Pharmacists to agree a suitable time for the essential maintenance that was required.'

214. Given Dr Hayes' evidence to the Tribunal, it considered that Dr Hayes should properly have contacted the Pharmacists to inform them of the intended power cut. This was because of the potential consequences of any power cut to perishable items stored in the Pharmacy fridge. However, it considered that, given that Dr Hayes' actions were based on the advice and assurance of the electrician, Dr Hayes' actions in authorising the power cut were not in any way malicious or intended to cause any harm. It was an ill-judged decision he made on the spot in the context of a difficult working relationship with the Pharmacy at the time. Whilst the Tribunal further notes the remediation on collaborative working Dr Hayes has undertaken since the Tribunal's findings on facts, it determined that his actions did not reach the threshold as to amount to misconduct which is serious.

215. The Tribunal had careful regard to the proven allegations against Dr Hayes, both individually and cumulatively, before being satisfied that his conduct did not meet the threshold of being serious misconduct. The Tribunal therefore determined that the overall nature of the proven allegations did not amount to serious misconduct.

216. In view of its findings, the Tribunal did not need to go on to consider the question of impairment.

Determination on Warning - 25/11/2025

217. As the Tribunal determined that Dr Hayes' fitness to practise was not impaired it considered whether in accordance with s35D(3) of the 1983 Act and under Rule 17(2)(m) of the Rules, a warning was required.

218. The Tribunal was mindful that it had found that none of the facts found proved in this case amounted to serious misconduct and therefore it did not need to go on to consider the question of impairment.

Submissions

Submissions on behalf of the GMC

219. Ms Goring, Counsel on behalf of the GMC, submitted to the Tribunal that the GMC does not seek to make an application for a warning. However, she acknowledged that this was a matter for the Tribunal exercising its own independent judgement. Ms Goring referred the Tribunal to the Guidance on warnings ('the Guidance') dated August 2013 and updated November 2025.

Submissions on behalf of Dr Hayes

220. Ms Tanchel referred the Tribunal to its' determination on impairment and submitted that, based on the Tribunal's findings, a warning would be neither appropriate nor

proportionate in this case. She said that to consider a warning, the Tribunal would have had to found serious misconduct which it did not. Ms Tanchel referred the Tribunal to paragraphs 16 and 17 of the Guidance.

The Tribunal's Determination on Warning

221. The decision on whether or not to issue a warning is a matter for the Tribunal alone to determine, exercising its own independent judgement. In making its decision, the Tribunal has taken into account the submissions of both parties, the overarching objective, and had regard to the Guidance.

222. The Tribunal applied the principle of proportionality, and weighed the interests of the public against Dr Hayes' interests. The Tribunal bore in mind that a warning would not restrict Dr Hayes' practice, however, it would be a serious response and designed to act as a deterrent sending out a signal to the doctor and the profession about what is regarded as unacceptable behaviour whilst maintaining public confidence in the profession and upholding proper professional standards and behaviour.

223. In making its decision, the Tribunal had regard to the Guidance, and in particular it had regard to paragraphs 16, 20, 26, and 32 which state:

16 ‘A warning will be appropriate if there is evidence to suggest that the practitioner’s behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:

- *there has been a significant departure from Good medical practice, ...’*

20 ‘The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.

a. *There has been a clear and specific breach of Good medical practice or our supplementary guidance.*

b. *The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor’s fitness to practise has not been found to be impaired.*

c. *A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation (subject to the comments in paragraph 7 regarding cases solely relating to a doctor’s health); the decision makers will need to consider*

the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.

d. *There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition).’*

26 ‘In deciding whether to issue a warning the decision maker should apply the principle of proportionality, weighing the interests of the public with those of the practitioner. It is important to bear in mind, of course, that warnings do not restrict the practitioner’s practice and should only be considered once the decision maker is satisfied that the doctor’s fitness to practise is not impaired.’

32 ‘If the decision makers are satisfied that the doctor’s fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:

- a. *the level of insight into the failings*
- b. *a genuine expression of regret/apology*
- c. *previous good history*
- d. *whether the incident was isolated or whether there has been any repetition*
- e. *any indicators as to the likelihood of the concerns being repeated*
- f. *any rehabilitative/corrective steps taken*
- g. *relevant and appropriate references and testimonials.’*

224. The Tribunal carefully considered the submissions made by both advocates and had regard to its findings at the Facts and Impairment stages.

225. The Tribunal considered that the factors outlined at paragraph 20 of the Guidance were relevant in this case. The Tribunal was satisfied that there had been a clear and specific departure from GMP, in breaching the confidentiality of a patient. However, the Tribunal considered that the conduct occurred some six years ago, was isolated and that Dr Hayes has reflected extensively on his behaviour.

226. The Tribunal considered that all of the factors set out at paragraph 32 of the Guidance were engaged; Dr Hayes had gained insight into his misconduct and expressed regret for his actions. He has an otherwise unblemished career, with no previous adverse history with the GMC, and been able to submit positive references and testimonials.

227. Taking the overall circumstances of this case into account, as outlined in the Tribunal’s previous determinations and above, the Tribunal considered that a warning was unnecessary and would be disproportionate in this case. Dr Hayes fully understood the

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aspects of his behaviour which required addressing. The Tribunal was satisfied that a warning was not required to maintaining public confidence in the profession and to uphold proper professional standards and behaviour.

228. There is no interim order to revoke.

229. That concludes the case.

ANNEX A – 14/03/2025

Application to amend the Allegation - Rule 17(6)

230. On behalf of the GMC, Ms Goring made an application under Rule 17(6) of the Fitness to Practise Rules (2004, as amended) ('the Rules'), which states:

*'Where, at any time, it appears to the Medical Practitioners Tribunal that—
(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and
(b) the amendment can be made without injustice,
it may, after hearing the parties, amend the allegation in appropriate terms.'*

231. The proposed amendments were as follows:

1. You authorised ~~In September 2019 you scheduled~~ a power cut to the Surgery and Pharmacy building on 9 November 2019 between 1.00pm and 3.00pm without notifying Mr C and/or Ms B, resulting in the Pharmacy fridges being without electricity for an unknown period of time resulting in:
 - a. a risk of degradation to the refrigerated medication;
 - b. a loss ~~of medication costing~~ to the Pharmacy of approximately £6000.00;
 - c. ~~replacement medication costing~~ the Pharmacy approximately £6000.00.

Submissions

232. On behalf of the GMC, Ms Goring submitted that the application to amend paragraph 14 of the Allegation can be made without injustice. Ms Goring submitted that the amendment does not change the nature of the allegation or the underlying misconduct.

233. On behalf of Dr Hayes, Ms Tanchel did not oppose the application to amend the Allegation.

The Tribunal's Decision

234. The Tribunal carefully considered whether it would be unjust to permit the amendments to the Allegation proposed by the GMC. It also had regard to whether the proposed amendments were of substance or just form, and whether they would assist in terms of clarity.

235. The Tribunal considered that the amendment does not change the nature of the alleged misconduct and clarifies the facts which are to be determined. The Tribunal therefore found that the amendment can be made without injustice to Dr Hayes.

236. The Tribunal therefore granted the GMC application to amend paragraph 14 of the Allegation.

ANNEX B – 14/03/2025

Application for Anonymity of a Witness - Rule 35(4)

237. On behalf of the GMC, Ms Goring made an application under Rule 35(4) of the Fitness to Practise Rules (2004, as amended) ('the Rules') that Ms A be granted anonymity throughout proceedings.

Submissions

238. On behalf of the GMC, Ms Goring submitted that the allegation which Ms A has made against Dr Hayes is of a sexual nature and therefore she should be considered a vulnerable witness under paragraph 36(1)(e) of the Rules.

239. Ms Goring further made submissions that she should be allowed to speak to Mr and Mrs B regarding their preference on being anonymised, so that an application for anonymity could be considered if necessary. Ms Goring stated that Mr and Mrs B had previously been assured that they would be anonymised. As an application had not been made in this regard, she wished to ascertain what their views were on the matter.

240. On behalf of Dr Hayes, Ms Tanchel did not oppose the application for anonymity in relation to Ms A. However, Ms Tanchel opposed the submissions which Ms Goring made in relation to speaking to Mr and Mrs B about seeking their views on anonymisation. Ms Tanchel submitted that although the GMC is entitled to speak to its witnesses, it is self-evident that Mr and Mrs B will want to be anonymised and in asking them, the GMC will only elicit a positive response. Ms Tanchel submitted that, in any event, an application for the anonymity of Mr and Mrs B would be resisted, partly on the basis that previous proceedings relating to the dispute between Dr Hayes and Mr and Mrs B had been heard in public sessions of the County Court.

The Tribunal's Decision

241. The Tribunal found that because Ms A has made allegations that Dr Hayes acted towards her in a manner that was sexually motivated and amounts to sexual harassment, it was appropriate for her to be considered a vulnerable witness under Rule 36(1)(e). The Tribunal therefore determined that Ms A should be anonymised throughout proceedings as a vulnerable witness.

242. The Tribunal then considered Ms Goring's submission that she be allowed to speak to Mr And Mrs B about their anonymity in these proceedings. The Tribunal found that the case

management powers contained in the Rules did not extend to it being able to prevent Ms Goring from speaking to witnesses who were not yet under oath. The Tribunal therefore determined that Ms Goring was able to speak to Mr and Mrs B about any matter within the usual course of hearing preparation. The Tribunal noted Ms Tanchel's submission that Mr and Mrs B had been identified in previous court proceedings relating to this matter.

ANNEX C – 05/03/2025

Application to amend the Allegation - Rule 17(6)

243. On behalf of the GMC, Ms Goring made an application under Rule 17(6) of the Fitness to Practise Rules (2004, as amended) ('the Rules'), which states:

*'Where, at any time, it appears to the Medical Practitioners Tribunal that—
(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and
(b) the amendment can be made without injustice,
it may, after hearing the parties, amend the allegation in appropriate terms.'*

244. The proposed amendments were as follows:

1. On or around 7 ~~9~~February 2019, you said to Ms B, 'I don't deal with your type. You know what I mean', or words to that effect.

Submissions

245. On behalf of the GMC, Ms Goring submitted that the application to amend paragraph 11 of the Allegation can be made without injustice. Ms Goring submitted that the mischief of the misconduct remains the same as before and the change in date reflects the evidence the Tribunal has heard from Mrs B ('Ms B'). She submitted that Mrs B gave oral evidence last week as to the reasons why she has amended her account, in particular that 7 February is a date of personal significance to her and her family.

246. On behalf of Dr Hayes, Ms Tanchel opposed the application to amend the Allegation. Ms Tanchel accepted that an application of this nature would be appropriate in a case where a genuine typographical error had been made, however she submitted that this was not the case. Ms Tanchel submitted that this application has been made because when Mrs B gave her oral evidence, she did not 'come up to proof' and altered her account. Ms Tanchel submitted that the GMC should not be allowed to use Rule 17(6) as a way by which they can alter the Allegation to fit the evidence which has been given.

247. Ms Tanchel submitted that if the Allegation were to be made, it would allow the GMC to circumvent the process by which allegations are brought to an MPT Hearing. Ms Tanchel

detailed the process that governed allegations, in particular Rules 4 and 7 of the 2004 Rules, submitting that these would not have been abided by if paragraph 11 of the Allegation were to be amended at this late stage. Ms Tanchel submitted that these earlier stages of the process could have been used to clarify the witness' evidence, in particular, she noted that there is no limit on the time available to parties to gather evidence and consider allegations during an investigation.

248. Ms Tanchel further submitted that when considering this application, it is necessary to assess Mrs B's credibility. She submitted that the date of 9 February 2019 appears multiple times in the evidence presented to the Tribunal and this demonstrates that this is not an example of a minor amendment of the Allegation. She submitted that other allegations in this case are subject to a non-specific date range, however this paragraph has been drafted by the GMC to have occurred on 9 February 2019 specifically. She submitted that the Tribunal should take this into account when assessing whether the amendment is sought due to a genuine error or whether Mrs B's credibility is an issue.

249. In summary, Ms Tanchel submitted that Mrs B has failed to provide evidence which supports the GMC case and the GMC has therefore attempted to shift the case against Dr Hayes. Ms Tanchel submitted that amending the paragraph would fundamentally undermine the burden of proof which rests on the GMC and requires the GMC to prove its case. She submitted that the reasons why the amendment was not made earlier are relevant in this case and should be taken into account, in particular the credibility of Mrs B.

The Tribunal's Decision

250. The Tribunal carefully considered whether it would be unjust to permit the amendments to the Allegation proposed by the GMC. It also had regard to whether the proposed amendments were of substance or just form, and whether they would assist in terms of clarity.

251. The Tribunal considered Ms Tanchel's submission that amending the Allegation at this stage would circumvent the appropriate process to be undertaken according to the Rules. The Tribunal was mindful of the timing and the stage in proceedings when this application was made; at the close of the GMC case and following Mrs B – indeed all GMC witnesses – having given oral evidence on the matter.

252. The Tribunal was satisfied, however, that Dr Hayes has been aware since the beginning of the GMC investigation into his conduct that he was to face an allegation of racist conduct towards Mrs B. Furthermore, Dr Hayes was aware that Mrs B had made an allegation regarding an incident which occurred in early February 2019, including the particular words used, which the GMC does not seek to amend. The Tribunal was satisfied that the proposed amendment would not alter the substance of the Allegation.

253. The Tribunal further found that while it was correct that paragraph 11 has been drafted in reference to a specific date, this did not preclude Dr Hayes from challenging the

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substance of the allegation, which, was not being altered. The Tribunal was mindful that Dr Hayes is entitled to highlight any inconsistencies in the GMC case and it remained open to Ms Tanchel to make submissions on the consistency and credibility of witnesses. Following analysis, the Tribunal was satisfied that Dr Hayes would be able to defend himself appropriately against this paragraph of the Allegation, should the date be amended.

254. The Tribunal took into account that the substance of the paragraph; namely the words used and the circumstances of the incident, are not to be amended and have remained the same throughout the GMC investigation and these proceedings. Moreover, there was no suggestion that permitting the amendment would frustrate or obstruct Dr Hayes' opportunity to gather evidence for his defence. He has been able to challenge the credibility of Mrs B's account and other witnesses can be (re)called if necessary. The Tribunal was satisfied that there would be no injustice to Dr Hayes should it allow the amendment.

255. The Tribunal further took into account the seriousness of this paragraph of the Allegation, that it established the factual basis for paragraph 12 which alleges that Dr Hayes made this comment in a racist manner and/or this amounted to harassment on the basis of race. The Tribunal was concerned that if it were not to allow the amendment, an injustice may arise in that this serious allegation of racist conduct may not be considered fully and the evidence not carefully scrutinised.

256. The Tribunal therefore granted the GMC application to amend paragraph 11 of the Allegation.