

PUBLIC RECORD**Dates:** 02/09/2025**Doctor:** Dr James GILBERT**GMC reference number:** 4717872**Primary medical qualification:** BM 2000 University of Southampton

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome

Suspension to expire

Tribunal:

Legally Qualified Chair	Mr Stephen Chappell
Lay Tribunal Member:	Mr Gregor McGill
Registrant Tribunal Member:	Dr Laura Florence
Tribunal Clerk:	Mr Francis Ekengwu

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Mark Sutton, KC, instructed by Clyde Co.
GMC Representative:	Ms Kyan Pucks, 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 Impairment - 02/09/2025

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Mr Gilbert's fitness to practise is impaired by reason of misconduct.

Background

2. Mr Gilbert qualified in 2000 at the University of Southampton, completed postgraduate clinical training, then completed his Membership of the Royal College of Surgeons in 2003. Mr Gilbert completed his specialist training for general surgery in 2008.

3. Mr Gilbert worked as a Senior Registrar at the Oxford University Hospitals NHS Foundation Trust ('the Trust') between 1 October 2008 to 30 September 2009. He then worked as a Consultant Transplant and Vascular Access Surgeon at the Trust between 18 October 2010 and 20 May 2022, which ended due to termination of his employment. Mr Gilbert then took up employment at The New Foscote Hospital initially carrying out hernia repair surgery while working as a locum registrar in general surgery with Brighton University Hospitals from August 2022 until January 2023. From January 2023, Mr Gilbert was also appointed as Chief Medical Officer at The New Foscote & Royal Buckinghamshire Hospitals Group.

4. The facts found proved at Mr Gilbert's 2024 substantive medical practitioners' tribunal ('MPT') hearing related to his conduct between August 2009 and April 2022, towards colleagues at the Oxford Transplant Centre at Churchill Hospital which is part of the Trust. Overall, the conduct found proved can be summarised as that Mr Gilbert behaved inappropriately towards colleagues. The Tribunal considered an extensive list of allegations against Mr Gilbert concerning sexually motivated conduct, sexual harassment, harassment related to race, intimidation, racist conduct, and abuse of Mr Gilbert's senior position ("the Allegation") towards his colleagues Ms A, Ms E, Mr F, Ms G, Ms H, and Ms I. Mr Gilbert's misconduct occurred in a professional setting and was referred to the GMC, in June 2022, after Mr Gilbert was dismissed in a local investigation.

5. Mr Gilbert was found impaired by reason of his misconduct and as a result the Tribunal imposed a sanction of suspension of 8 months. The Tribunal did not order a review to take place following that suspension. On appeal the High Court increased the suspension to a 12-month period with a review after the GMC and The Professional Standards Authority for Health and Social Care lodged a successful appeal.

Today's Hearing

The Evidence

6. The Tribunal has taken into account all the evidence received, both oral and documentary.

7. Mr Gilbert gave oral evidence at the hearing. In summary, he said:

- He discussed his previous finding of misconduct and acknowledged in response to tribunal cross-examination that a problem existed in relation to concerns of inappropriate behaviour and sexually inappropriate behaviour towards younger female colleagues in the medical profession.
- He accepted that by virtue of the finding against him he had contributed to these concerns and further accepted that wider change in culture was needed.
- He also discussed his decision to work as a locum registrar instead of a consultant to gain further experience about the workplace power dynamics and the abuse of power within the medical profession.
- He also apologised to his victims and stated that he wanted to be an 'ambassador for change' in challenging power imbalances between senior and junior colleagues.
- He further set out how he would have coping strategies in the future which would help him in the future particularly with his interactions with colleagues in high pressure situations.
- Mr Gilbert explained the reasons why it was necessary for him to go through a journey to develop his insight in respect to sexist, misogynistic, racist comments, and the conduct that the Tribunal heard about and commented that he had previously been "blinded with a complete lack of understanding about things like the power dynamic and professional boundaries." He said he had taken steps to address this and to remediate his conduct and that he had been through a painful process.

Documentary Evidence

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8. The Tribunal received documentary evidence which included, but was not limited to:

- MPTS record of determinations for Mr Gilbert's August 2024 substantive tribunal hearing which included the facts, impairment and sanctions determinations;
- Email exchanges between Mr Gilbert and GMC investigation officers regarding the Assistant Registrar's decision to order a review, attaching the written reasons for the decision, dated 30 August 2024;
- A sealed court order and an Approved Judgment of the King's Bench Division's Administrative Court, dated 3 April 2025;
- Emails from the GMC and legal representatives of Mr Gilbert to Judge Calver, respectively dated 17 March 2025 and 19 March 2025;
- CPD and training certificates, reflections, and various testimonials from colleagues and mentors of Mr Gilbert;
- Details of an active remediation programme he had recently commenced; and
- Mr Gilbert's 2022 Medical appraisal document dated 18 August 2025.

Submissions

On behalf of the GMC

9. Ms Pucks submitted that based on the previous tribunal's determination and the written judgment of Mr Justice Calver in the High Court, as it currently stands, the GMC is neutral on impairment but suggested areas the Tribunal may wish to consider in its deliberations. Ms Pucks stressed the seriousness of the matters found proved against Mr Gilbert.

On behalf of Mr Gilbert

10. Mr Sutton submitted Mr Gilbert had candidly engaged with a wide and diverse range of individuals of varying medical seniority during his remedial journey. He also submitted that the overarching objective had previously been considered by the substantive 2024 tribunal and in the judgment of Mr Justice Calver. The MPT determined that Mr Gilbert's fitness to practise was impaired based on the second and third limbs of the overarching objective. It did not consider a finding of impairment based on the first limb (public protection). Mr Justice Calver commented that his conduct did have the capability of impacting on the first limb of public protection but there was no evidence that it did.

11. Mr Sutton submitted that following Mr Gilbert's 12-month suspension, he was no longer impaired and can be restored to unrestricted practise.

The Relevant Legal Principles

12. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

13. This Tribunal must determine whether Mr Gilbert's fitness to practise is impaired today, taking into account Mr Gilbert's past misconduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

14. The Tribunal looked for evidence that Mr Gilbert has developed insight into the full breadth of his misconduct, any further remediation, that he has not repeated his conduct, that he has maintained his skills and knowledge and that patients will not be placed at risk by resumption of practice.

The Tribunal's Determination on Impairment

15. The Tribunal considered Mr Gilbert's previous misconduct and saw that it was serious and ultimately led to a finding of impairment, 12-month suspension and a review hearing.

16. The Tribunal had regard to the findings and conclusions of the 2024 Tribunal and also the findings of Mr Justice Calver, the submissions and the documentary evidence from both parties at this hearing. Further the Tribunal noted that the 2024 Tribunal considered Mr Gilbert's misconduct was remediable and went on to consider if Mr Gilbert's fitness to practise remained impaired.

17. The Tribunal agreed that the public protection limb of the overarching objective was not engaged and went on to consider if Mr Gilbert's fitness to practise was impaired with regard to the second and third limb of the overarching objective namely public confidence in the medical profession and maintaining proper standards in the medical profession.

18. The Tribunal considered Mr Gilbert's current insight into his previous misconduct and was reassured by the lack of evidence of any repetition, as well as Mr Gilbert's range of written reflections together with his oral evidence at this hearing into his insight which showed progress. The Tribunal was satisfied by Mr Gilbert's reflective oral responses at this hearing particularly regarding his misconduct toward female colleagues and agreed that although Mr Gilbert faced serious sexual and racial allegations, he put in significant into his insight and made progress.

19. The Tribunal was of the view that Mr Gilbert had made effort into his remediation and could not see any other significant avenue for him to explore to gain further insight or remediate.

20. The Tribunal also had regard to the range of positive written testimonial evidence from his colleagues, some of which discuss Mr Gilbert's past misconduct and his current behaviour in a clinical

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environment. It noted that Mr Gilbert had sought professional support as well as the support of colleagues and a number of formalised mentorships to ensure that he continues to gain insight into his behaviour and support in dealing relationships with colleagues.

21. The Tribunal also considered the extent and quality of his Mr Gilbert's CPD and further learning and saw that the courses he has completed were wide-ranging and relevant to the allegations which were found proved against Mr Gilbert. This included a bespoke coaching and enlightenment active remediation programme involving one-to-one sessions. The Tribunal noted that Mr Gilbert was able to provide in depth evidence detailing his continuing development activities and further training courses including those about keeping his medical skills up to date.

22. The Tribunal was satisfied that Mr Gilbert was remorseful, noting that in his oral evidence he commented that he is now committed to be an ambassador for change against inappropriate workplace behaviour particularly against female colleagues.

23. The Tribunal considered if a risk of repetition existed and agreed with regard to the evidence of current fitness to practise both documentary and oral, Mr Gilbert has done as much as he could do to minimise the risk of repetition. It concluded that the risk of repetition was very low.

24. The Tribunal considered Mr Gilbert's impairment with regard to the public interest and noted that the object of these proceedings was not to punish Mr Gilbert but meet the engaged overarching objective and ensure that Mr Gilbert was fit to return to unrestricted practise. It took the view that the objective, reasonable and fully informed member of the public would agree that Mr Gilbert has undertaken a comprehensive journey of insight and remediation and made significant progress.

25. The Tribunal considered if Mr Gilbert has maintained his skills and knowledge and decided that he provided sufficient evidence to demonstrate ongoing maintenance of his medical skills and indicated that he has secured clinical mentorship relationships to support him re-skilling should he decide return to practise as surgeon. It also noted that Mr Gilbert is aware that he will need support to return to full practising surgeon and agreed that patient safety, in this regard.

26. The Tribunal determined that Mr Gilbert appreciates the gravity of the 2024 Tribunal's findings and has demonstrated that he has fully reflected upon them and taken positive action to ensure that his misconduct is not repeated. His reflections address specific sections of the 2024 Tribunal's decision and the decision of the High Court.

27. It was clear to the Tribunal that Mr Gilbert has taken a great deal of time and effort to reflect upon those findings of the 2024 Tribunal and the High Court decision and the impact upon the victims, public, and the profession.

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28. This Tribunal has therefore determined that Mr Gilbert's fitness to practise is not impaired by reason of misconduct.

29. The Tribunal noted that the current suspension on Mr Gilbert's registration is due to expire on 12 September 2025. The Tribunal took into account that the misconduct found in this case was serious and the High Court imposed a period of suspension for 12 months to mark the seriousness of the misconduct found against him. In light of this, the Tribunal determined that the current substantive sanction of suspension should remain in place to run its course.

30. That concludes the case.